

**TO BE SOLD
BY PUBLIC OUTCRY**
AT THE
OLD BARRACK COMMISSARIAT STORES,
Near the Barrack Master's Office in the Fort,
On Friday next the 20th Instant,
at Noon

SUNDRY Bags of Condemned Biscuit
and Dead Stock, Lists of which may
be seen at the Commissary General's Of-
fice.

Terms of Sale: a deposit of 10 per Cent
is to be paid down immediately by the
purchaser, and the Articles to be paid
for and Cleared away on or before the
third day after the Sale, or the deposit
will be forfeited and the Articles resold
at the risk and loss of the first purcha-
ser.

EDWD. H. BELLASIS,
Commissary General,
BOMBAY
COM. GENERAL OFFICE
18th October 1826.

Higgs and Briggs
WILL SELL
BY AUCTION.

To-morrow, the 19th Instant,
A FEW Articles of Household Furni-
ture, a Square Piano-forte, the re-
mains of a Case of Millinery, and a va-
riety of other articles.

AT ONE O'CLOCK,
A Calcutta built Sloop-rigged, with a
pair of capital Horses and harness,
and
A Single poled Tent.
Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE EXPOSED
FOR SALE
AN INVOICE OF PICTURES
IN NEAT GOLD FRAMES,
JUST IMPORTED,
COMPRISING
ELEGANT COLORED
PRINTS FROM SHAKESPEARE'S
PLAYS VIZ.

A PAIR Merry Wives of
Windsor..... Rs. 140
A Pair Coriolanus and Gentle-
man of Verona..... 140
A Pair Loves Labor lost and
Comedy of Errors..... 140
3 Pictures Merry Wives of Wind-
sor..... 190

FRENCH COPIES
OF WILKIE VIZ.

4 Prints, Le Vaccarme dans l'Ecole,
Le Baiser Surprise, Les Conteurs
and Le Prececonter Pris, Rs. 100
4 Prints Les Politiques de Village,
L'Aveu de l'Amour de Violin, Le
Droit de Coupe, and L'Four de
Loyer..... Rs. 100

4 Dittos, Le Bon Conseil, Les Jo-
yeux de Dames, La Souris
Echappee, and La Bonne Nouvelle..... 100

Also,

Chapeau de Paille..... 20

Sets of Colored Shooting..... 50

An Indianman in a North Western..... 40

2 Prints, Partridge, Hawk and
Bird and Fruit..... 100

Mary Queen of Scots and Lady
Jane Grey..... 60

Deliberation..... 25

ets Dog Game Pointers and..... 60

Dittos of Large Long Hunting..... 200

Dittos Pheasant in Dangers, Fox
and Dog and Game..... 80

A Pair of Prayers..... 55

Dittos Brighton Beauties..... 40

A Set Comet Eclipse, Mist & Psyche..... 85

A Print Golden Age..... 15

A Set Pointers and Setters..... 45

Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE JUST RECEIVED
FOR SALE,
GENTLEMEN'S FASHIONABLE
SUPERFINE
DRAPE AND BLACK
HATS,
Price Rs. 20 EACH.
Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE FOR SALE,
FINE BENGAL TABLE CLOTHES,
SIZE

FIVE feet by 10 each..... Rs. 10
Do..... 14..... 14
Do..... 22..... 22
Do..... 26..... 26
Bengal Towels per dozen Rs. 3 1/2 and 4
Meadows Street, 18th Oct. 1826.

Higgs and Briggs.
HAVE JUST RECEIVED
FOR SALE,

SPODE'S
SUPERIOR
BLUE AND WHITE
DINNER SETS
OF
EARTHEN WARE,
PRICE PER SET FOR 21 PERSONS
RUPEES 300.

SETS FOR 12 PERSONS RS. 150.
TO BE SOLD SEPARATELY,
BLUE and White Hotwater Plates,
Vegetable and Beef Steak Dishes,
Table, Soup, Dessert and Cheese
Plates, &c.
Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE FOR SALE
On Commission,

THE Following valuable Suite of
Tents, which are nearly new, and
may be had separately or together, they
are pitched for inspection near the new
Sallyport on the Esplanade.
VIZ.

A General Officer's Tent, Size 19 by
30 feet..... Rs. 700

Two field Officer's Dittos each 15
by 25 at..... 400

A Single poled Ditto 13 feet
Square..... 200

A Bechoba..... 150

Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE JUST RECEIVED
FOR SALE
On Commission,

A NEAT
CALCUTTA BUILT
BAROUCHE,
Price Rs. 1500.
Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE JUST RECEIVED
FOR SALE
On Commission,

EXCELLENT
ENGLISH CLARET,
FROM WILLIAM LEADE and CO.
Price per Dozen Rs. 25.
THE above is sold at this reduced
Price, to Close an account, and is
particularly recommended to the notice
of Gentlemen.

Meadows Street, 18th Oct. 1826.

Higgs and Briggs
HAVE JUST RECEIVED
FOR SALE
On Commission,

A SECOND HAND
LONDON BUILT
TILBURY,
IN GOOD CONDITION,
Price Rs. 500.
Meadows Street, 18th Oct. 1826.

DADABHOY EDULJEE
HAS for sale, at his Shop, near Ma-
yjee Bora's Shop, at Bazar
Street, the best quality MANILLA
CHEROOTS, purchased from Ship
Good Success, each Box containing 1000
Cheroots, at 25 Rupees per thousand.
Bombay, 18th Oct. 1826.

**TO BE SOLD,
BY AUCTION**
ON THE PREMISES,
On the 5th November next,
WITHOUT RESERVE.

THE Pleasant retreat of BEACH
COTTAGE, for a more particu-
lar description of this valuable little
Estate, those who wish to purchase are
referred to a hand Bill, laying at the
GAZETTE OFFICE.

And at the same time will be sold for
ready Cash, some Articles of Household
Furniture, Lamps, Glass Ware, &c. &c.

TERMS OF SALE FOR THE ESTATE.
A deposit of Ten Rupees in the hun-
dred to be paid down by the Purchaser
of the Estate on the Day of Sale, and
the balance of the Amount of the pur-
chase Money, to be paid three days after,
in default of which the deposit to be
forfeited and the Estate to be resold
at the risk of the first Purchaser.
Bandora Beach Cottage, 17th Oct. 1826.

SALE BY AUCTION.

ON This Day, WEDNESDAY the
18th instant, there will be sold, by
public Auction, in the house on Bombay
Green, adjoining Mr. Anderson's Librar-
y, an extensive and elegant assortment
of GLASS and PLATED WARE, re-
cently imported.

It comprises a variety of Chandeliers,
Grecian Lamps, Wall and Table Shades,
and Candlesticks; Decanters, Wine
Glasses and all articles of Glass-ware in
common use:—Also a considerable
quantity of Plated-ware of fashionable
patterns.—The sale will commence at 11
o'clock in the forenoon, and continue un-
til the whole is sold off.
Bombay, 18th Oct. 1826.

**For Freight or Passage
TO LONDON,
THE FINE SHIP**



Britannia A. I.

BURTHEN 500 TONS.

Wm. Bourchier R. N.

COMMANDER,

WAS to leave England on or before
the 12th July, and may be
expected here early in November.

This Ship has had a thorough refit in
England, been new coppered, had her
accommodations altered and enlarged
and is now as neatly fitted up as any
vessel that visits Bombay.—The Britan-
nia carries a Surgeon and will be dis-
patched from this in December.

Plans of her accommodations may
be seen and further particulars learnt,
on application at the Office of Messrs.
ADAM SKINNER and Co.
Bombay, 18th Oct. 1826.

Passage to London
THE FINE TEAK BUILT SHIP



RECOVERY,

OF 550 TONS BURTHEN.

HENRY C. CHAPMAN,

COMMANDER,

WILL be dispatched to London
about the 15th of November, and
is to touch at the Cape of Good Hope.

This Ship is elegantly fitted up for
passengers, and carries a regular Sur-
geon. Apply to the Commander at the
Office of Messrs. WILLIAM NICOL
and Co.

Bombay, 18th Oct. 1826.

**For Freight or Passage
TO
MUSCAT, BUSHIRE AND BUSSORA
THE FINE FAST SAILING**



BRIG,

CAPTAIN SYAD MAHOMUD ALLY
WHICH will positively Sail on the
5th November next.—For fur-
ther particulars Apply to AGA MAHO-
MUD SOOTRY'S at his Office in
Nesbitt Lane.
Bombay, 18th October 1826

Register of the Pluviometer at Tannah, on the
Island of Salsette, for the Monsoon of 1826.

Date.	Inches.	100th parts of an inch.
May 1826.	"	15
June ditto.	27	45
July do.	39	80
August do.	11	59
September do.	24	77
October do.	"	15
Total	103	91

PLUVIOMETER AT SURAT, 1826.

September	1.....	0 18
	2.....	"
	3.....	1 00
	4.....	0 31
	5.....	0 11
	6.....	0 11
	7.....	"
	8.....	0 17
	9.....	0 46
	10.....	1 32
	11.....	1 16
	12.....	0 18
	13.....	2 06
	14.....	"
	15.....	0 13
	16.....	"
	17.....	0 09
	18.....	0 14
	19.....	0 41
	20.....	"
	21.....	1 34
	22.....	"
	23.....	1 15
	24.....	0 07
	25.....	0 21
	26.....	0 40
	27.....	"
	28.....	"
	29.....	"
	30.....	"
Total—	11	84

June..... 15 87

July..... 13 87

August..... 4 22

September..... 11 84

Total in the four months 45 80

GENERAL ORDERS

By the Hon'ble the Governor in Council.
BOMBAY CASTLE, 5th OCTOBER 1826.
No. 281 of 1826.—The following Cadets for the
Infantry, and Assistant Surgeon, having reported
their arrival at the Presidency, on board the ship
Recovery, on the 25th ultimo, and produced the cer-
tificates, and covenants of their several appointments
on this Establishment, are admitted as such into the
service from that date. The Cadets to be promoted
to Ensigns, date of rank to be settled hereafter.

Infantry.
018 Messrs. Alfred Morrison.
032 " George Hutchins Bellasis.
073 " James Elphinstone Packney.
076 " Alfred Thomas.

Medical Establishment.

Mr. William Rowland.

Bombay-Castle, 5th October 1826.

No. 282 of 1826.—The rank of the following
cadets for the Cavalry and Infantry, having been
received from the Hon'ble the Court of Directors,
they are permanently posted to Regiments, and dates
of commissions assigned them as follows.

Cavalry.	Rank as Coronet	To what Regt. appointed.
1 Patrick Grant		
Dallas.....	27th Dec. 1825	2d Regt. LL Cav.
2 Robt. Hilliar		
Richards.....	17th Feb. 1826	3d do.
3 Charles Forbes		
Jackson.....	do.	2d do.
4 Thomas Eyre	11th March do.	3d do.

Infantry.

1 George William

Walker..... 31st March 1826

2 John Richardby 2nd Regt. N. I

Hibbert.... do. do. do. 7th do. do.
3 Arthur Meadows. do. do. do. 18th do. do.
4 William Gould do. do. do. 24th do. do.
Duncan..... do. do. do. 24th do. do.
5 Chas. Smith do. do. do. 6th do. do.
Mant..... do. do. do. 6th do. do.

Bombay Castle, 5th October 1826.
No. 284 of 1826.—The rank of the undermentioned Assistant Surgeons having been received from the Hon'ble the Court of Directors, commissions are assigned to them from the dates of their departure from Europe, viz.

Medical Establishment.
Date of rank.
Robert Foulerton, 15th October 1825.
James John Cunningham, 11th January 1826.
Bombay Castle, 5th October 1826.

No. 284 of 1826.—The Hon'ble the Governor in Council is pleased to publish the following Extract of a General Letter from the Hon'ble Court of Directors, to the Supreme Government, at Fort William, dated 30th December 1825, and published in General Orders at Calcutta, on the 4th May 1826.
Letter from Bengal 16th September, 1826.

Para. 5th to 12th.—On the death of Major General Thomas, Govt. was obliged, under the Regulations of 1796, to reappoint a Major General (Martindell), who had already had a tour on the staff. Adverting to the non issue of His Majesty's Brevet, owing to a state of peace, and to the general inexperience of reappointing the same Officers to the General Staff, it is earnestly submitted that the Senior Colonels should be declared eligible to the same advantages in regard to the staff as Major Generals, when there are in India no Officers of the latter Rank who have not already served their tour of staff duty. The Colonels thus appointed, will vacate the situation on the arrival of a General Officer from Europe; and the time of their service as Colonels will be ultimately considered as so much of their services on the staff; another vacancy having occurred by the addition of a fifth General Officer on the staff, Colonel Shouldham, the Senior Officer of that Rank, has been appointed to fill it.

In pursuance of the Regulations established in the preceding Orders, the Hon'ble the Governor in Council is pleased to appoint from this date Lieutenant Colonel Commandant Leighton C. B. to the General Staff of the Army, on the allowances of a Major General; and to relieve Lieutenant Colonel Commandant Hessman in the Command of the Surat Division of the Army from the same date.

The Hon'ble the Governor in Council is further pleased to resolve, that the period during which Lieutenant Colonel Commandant Hessman has exercised the command of the Surat division in the room of a Major General, shall be considered as part of the four years regular staff tour prescribed by the Regulations, and that during such period, he shall draw the allowances of a Major General accordingly.

In appointing Lieutenant Colonel Commandant Leighton C. B. to the General Staff of the Army, the Hon'ble the Governor in Council avails himself with much pleasure of the opportunity of expressing his entire satisfaction, with the able, upright, and honourable manner, in which Lieutenant Colonel Commandant Leighton has conducted the duties of Adjutant General of the Army since his appointment to that important office in 1817.

Major J. W. Aitchison, Deputy Adjutant General, is appointed acting Adjutant General of the Army from this date or until further orders.

Bombay Castle, 5th October 1826.
No. 286 of 1826.—Lieutenant R. Foster, of the Engineers, is allowed a furlough to Europe on Sick Certificate for three years, from the date of his embarkation.

Bombay Castle, 5th October 1826.
No. 287 of 1826.—With reference to the Government order of the 14th of March 1822, published in General Orders under date the 16th of the same month, the Hon'ble the Governor in Council is pleased to direct, that the Committees therein ordered to be assembled monthly, for the purpose of settling the rate of compensation to be issued to the Native Troops, shall in no instance whatever award a different rate than is to be found in the Tables there laid down for their guidance, which must be strictly adhered to.

Having ascertained, from the Narricks furnished to them, the average price of the grain on which compensation is to be granted, they will take the nearest corresponding price inserted in the Tables, and be regulated in their award accordingly.

Officers preparing abstracts, and Paymasters of stations, also, whose duty it is to examine the correctness of the charges contained in them, will be held severally responsible for payments made contrary to the principle here laid down.

Bombay Castle, 6th Oct. 1826.
No. 288 of 1826.—Bridgadier Sergeant Robert Woodville, of the Artillery, is allowed his discharge from the Army, on the sum of Rupees 711 0 44 being paid to the Military Paymaster at the Presidency, on his account.

No. 289 of 1826.—The leave of absence from the Presidency granted on the 24th August last to Captain J. W. Molesworth, Assistant Commissary General, is extended to the 31st Instant.

By Order of the Hon'ble the Governor in Council.
D. GREENHILL,
Act. Sec. to Govt.

ECCLESIASTICAL APPOINTMENT.
The Hon'ble the Governor in Council is pleased to appoint the Reverend James Gray to be Chaplain in Church.

By Order of the Hon'ble the Governor in Council.
D. GREENHILL,
Act. Sec. to Govt.

BOMBAY CASTLE,
6TH OCTOBER, 1826.

To the Editor of the Bombay Gazette.
KOOLABOO'S MANUSCRIPT, CONTINUED.

I.
Then saw I, a man whose wrath was terrible, so that nothing was like unto his anger, but the wind passion of a Bethlehemite; and who guided himself not by the rules of reason and

veracity, deeming those but invented for the use of common-men;—and I saw that he slew Tiger's, Serpents and beasts of the field which make the eighth season a cloud of trembling unto the way farer; yet over came he them with a feather cut like unto the pen of a scribe. And I saw that the story of the deeds he told was his own story, and that the deeds wherever good, were his own deeds, and that they lacked the sweet odour of fidelity, more than the sands of the wilderness do water.—And I saw that the bitter laugh of mockery even followed his history; and his heart smarted like the wound when salt is applied to it; Yet was he troubled with a thirsty longing to be doing, and ceased not to dip his pen into the venom of calumny.

II.
I had long slept in my third slumber for the cool-winds bore the dewy scent from the green-Tree, and the stars were lovely as the spangles on the vesture of a bird; my eyes were heavy so that a dream came over my Soul.—I saw the glory of this earth; and the mighty there—of gathered together, presently, and of a sudden came a low murmur as of the sighing of a forest, and the countenances of men seemed changed; a rough and loud cry was that of the multitude; and the voice of their anger was like the waves of the sea scourged by the whip of the north-wind, then knew I, that men would little longer be contented with the things that pleased their fathers; and that they invented cunning, and curious devices, and wrought that by the hand of one, which thousands, wise, and glorious before them could not do.—Here my dream changed and I saw a multitude many as the ears of a corn-field, and they held a strange thing where upon might be fixed words, and the letters of words, and which could colour paper with the thoughts of the heart; so that whatever it desired might be unfolded thereon; and it was accounted honorable of the learned to give there to, and to find accepted therein, the beauty of their sayings.

III.
But what is there lovely on this earth, which may not—overstrained—be perverted: what is there human which holdeth in its place?—the thoughts of this day, are not those which shall be, on the same things to-morrow, a day is our life—we are but as a breath, and our vain imaginings are like the bubbles, which break over the torrent—they pass away, and are forgotten.

IV.
Here changed my dream, and I saw that man's blessing may prove his bane—that a thing good in itself may (for a time) prove bad in effect; and I said me thinks it is with this strange thing men call a Printer's press—even as with the medicaments of the leech—too much is bad, too little is worse, enough only is good;—little time had I for communing with my heart; for the voice of a multitude shouted saying—let us have!—and another but more powerful said—"Nay, not so, for ye would rend the chain from the conquered ere it be safely linked, and ye would upturn, like ocean in a tempest the foundations of lands, so that nothing, now sacred would remain so; but confusion would scatter out-ward things, and names would be but names or vanish from memory like the Cloud-cast shadows of an April day.

V.
Then was it that J. Kooolabboo be thought me which side of the story should be my side of it, and what words should be upon my life.—The desire of my heart rested little either-wards; and it was (touching the thing, for its very self) a matter of moonshine, what side I adopted or indeed what words I used; yet for that I thought that it would please those in power that I should be of their thought and, that it might lead the overflowing of their abundance into my cup; therefore said I even as they said, and would unsay it again to please them.—Believe this my Confession, I charge ye!

VI.
Then saw I a man who had traveled in far countries, who had drunk the Arab's Cup in the desert, and who had gone down into ship's; I knew him to be an abomination in the sight of the rulers, and judged that it would please them well that his mighty spirit should be humbled; for he heeded little the pride of place, which his words made to tremble; and the seat of the powerful which tottered at his breath. He was one of a thousand, and his likeness was not to be found every day. The lion though he shake the woods with his roaring must fret even at the bite of a flea; so was it with him, my pony, and pitiless revellings hurt him so that he turned upon me, and nibbling had surely then been my portion but for my insignificance, keen, and cutting were the words, which he uttered against me, they were like unto the lightning-stroke which teareth the tree from its branches. I shrunk within myself as the snail, and said happy, and well mayst thou think it with thee Kooolabboo that the bread thou eatest is had with little labour, never must thou cease helping (in the utterly little thou canst) those who feed thee. Be unto them like the dog, which barketh during the watches of the night.

KOOLABOO.
To the Editor of the Bombay Gazette.
"Optimum est in omnibus quod modicum est in optimis."
MR. EDITOR,
Your brother Editor's correspondent Guido,

has endeavoured to palm upon the small society of Asseerghurh the late production of his pencil; where the number is so few, it is rather unkind in him to stigmatise them with his wretched daub; his canvas, is shattered and in shreds, his brushes worn down to scrubs, and his colours heterogeneously blended and combined without any regard to the mutual light and shade. They should tend each other; no painter of any taste or skill would give birth to, much more publicly exhibit a picture composed of the ill-consorted and incongruous objects therein delineated and deficient even of a touch of perspective to relieve and set off the whole. The freedom of the press in India, is a subject that has been so long and ably handled by the first politicians of the age, that an attempt to throw any greater degree of light on the subject, than has been already diffused, must evince to the world no ordinary degree of self-sufficiency; but when despotism is made use of as an instrument to silence the voice of public opinion, and restrain the exercise of a free press in India; to prevent the amelioration of the natives when the interference of the British legislature is denied to be at all applicable to the state of native Indian society, although the operation of the English law, is in full force at all the Presidencies—and when to support these arguments a coarse representation is made of an indelicate caricature of a wady day in St. Pauls Church yard, and the back of this again the folly of introducing Camels and Elephant's as beasts of burthen, in England is exposed, as being conclusive evidence against the liberty of the press in India, when such a jumbling of absurdities, and inconsistencies is portrayed in one small picture, you will surely agree with me Mr. Editor in supposing that the painter of it is far inferior to his task, and was madly seized with the rash desire of making an exhibition, (expose I should say,) of himself of boldly offering himself in place of his beloved Grand-father as a fit object of the wily sarcasm, and better talents he so much deprecates, as arising from the liberty of the press: discriminating politician! not to distinguish licentiousness from liberty. Such an idiotic instance of the *Cacoethes scribendi* is without a parallel, and all the hillebore of Anticlyra would be insufficient to produce a perfect remedy. The production reminds me of the sick man's dreams, and it is evidently the painter's intention, next to the gratification of his literary vanity, by drawing something monstrous, and absurd! "*Dylphium sevis appingit, fluctibus aprum*" to realise the Poet's picture of the unnatural conjunction of a Horse's neck to a human head: by forced and constrained analogies from a variety of diverse objects he has admirably managed. "*Undique colatis membris*"—varias inducere plumas, and by so judiciously inserting at the end the largest monsters of nature which of all others he supposes are most calculated to form an insuperable barrier to the liberty of the press he has fabricated a masterpiece of absurdity never to be equalled.

Now for an examination of Guido's depth of acumen, the force of his reasonings, and the source from whence they are drawn. The operations of the human mind throughout every condition of life; and every form of society are influenced by circumstances connected with the peculiar state, and situation, passive obedience, and despotism occupy a chief place in the thoughts of him, who is raised to power, fortuitously or otherwise—such it may be concluded is the condition of Guido and therefore, he perhaps considers them the darling attributes of His Majesty, his strength to be founded on their establishment, his consequence to be up-held by their sway and thinks it is most essential to his interests to condemn the restrictions to his power, which public opinion is the means of working through the liberty of the press. It is not always safe to form a judgment of a man's sentiments by his writings, for in many instances they have been found diametrically opposite; but it is no bad criterion of judging of the capability of an individual from the opinions he promulgates; when a man insinuates that a certain class of men should be treated as slaves, "They have only to obey" such are Guido's words; it is just to infer, that if fortune should ever give him authority over them, that he would exercise in a manner adapted in his opinion to their state of bondage and agreeable to his notion of the unlimited obedience implied in the conditions of inferiority; it is no distortion of expression to impute such sentiments to your brother Editor's correspondent, and it becomes the duty of every man who is an advocate for the improvement of his species and a contemner of the abuse of authority to inveigh against such uncharitable and malignant doctrines Guido is no supporter of the liberty of the press, because it would tend by the misrepresentation of servants, to make the native subservient, and to decrease in them that awe and respect which they should ever have for their rulers; hence no doubt they are to be despotically governed, away with Guido and his rigour or let British moderation for ever succumb to severity. Guido will be fortunate if after the publication of his opinions which the licentiousness only of the press could have tolerated; they are, if made known in any way, misrepresented, to his domestics; for although happy in the enjoyment of his service, and in the performance of his duty, will, it is possible, that if the contents of his

letter were clearly explained to them and without conveying false conceptions of his ideas, so far from manifesting a concurrence with his views, they would promptly demand a discharge from his despotism; not to trespass any longer on your time, I shall conclude with a friendly remonstrance to Guido. *Ne super ultra repidam* is Apelles' own remark, and should have met with some attention from him. Guido has undoubtedly overrated his talents, his execution is good in sketching caricatures; but the branch of painting, to which he has now aspired is much beyond his slender ability; he is no politician let him relinquish all political discussions and henceforth applying his style which so happily delineate all the overstrained principles of the art be strictly confined to caricature painting, which seems more adapted to the taste of his forced and turgid Genius.

WILKIE.
Asseerghurh, 7th October, 1826.
BENGAL HURKARU.—SEPT. 22.
THE NEELGHERRIES.

To the Editor of the Bengal Hurkaru.
Sir,—I shall commence the description of the climate of the Neelgherries, with the opening paragraph of a letter from a Medical Friend, a copy of which he has kindly favoured me with.

"From my own experience of the climate and inspection of the Country, as well as from the sentiments I have heard expressed by others, I think it would be highly desirable to form an establishment on the Neelgherries for the accommodation of Invalids. The climate appears to me to possess advantages over that of any other portion of the British dominions for Invalids; and under a conviction that its importance has been overlooked, I shall embrace this opportunity of entering more fully into the subject than otherwise would be necessary."

My friend then gives a brief description of the hills. Some of his particulars have been described more fully in my former communications, and the rest I purpose giving more at large than could be practicable in a letter to a friend.

The salubrity of this climate has now been fully ascertained. The incredulity that for some time prevailed on the subject was noticed in my first communication, and considering the general prevalence of fever in mountainous regions throughout India, it must be conceded that a degree of scepticism was for a time not unreasonable. But it is quite inexcusable to remain incredulous after the numerous favourable reports that have been made by eminent Medical Officers. However, I will endeavour to enable your readers to draw the same conclusion: for this inference may be anticipated from ever sensible man, that if my description of the country be correct, it must be the region of health.

In the first place, it is entire free from those morasses and vast collections of decayed vegetation that generate Miasma, which, I believe, are the principal cause of fever in other parts of India. This cannot be said indeed of the passes to the Neelgherries throughout the year, since from February to May inclusive, they partake of the nature of other Ghauts. But no inconvenience is to be apprehended from passing through them even at that season, unless the traveller is so imprudent as to halt during the night, and sleep in such places: and as this may always be avoided by starting at a proper hour with sufficient means of conveyance, the existence of fever in the passes forms no exception to the character given of the Neelgherries. During my residence there two cases of the kind occurred, both which appear to have been occasioned by zeal for the public service, which detained the Gentlemen longer in the unwholesome parts than was, perhaps, necessary. However, on re-ascending the hills, both recovered.

It may be suspected that the extensive woods which have been described must be filled with a mass of decayed vegetation, that will emit febrile exhalations at some season of the year. But that this is not the fact, my professional friend already cited, bears the following testimony. "The natives of that part of the hills from which I write, generally select the vicinity of the woods for their villages, in order to be sheltered—a strong proof that no noxious air is generated from the woods." Were these very picturesque cires less healthy than the open plain, the inhabitants must long ago have discovered the fact and corrected their mistake in selecting them for their abode.

In addition to this testimony it is worthy of remark, that the Company of pioneers employed on the roads have selected for the site of their village the skirts of a thick wood on the banks of the lake. These men have suffered much from fever in the ghauts while at work here: it is therefore natural to conclude, that they would have avoided a wood for the immediate vicinity of their habitations, had they not been satisfied that the atmosphere there was innocuous.

In the next place, the air of these elevated regions is highly rarified, pure, elastic; and notwithstanding the quantity of rain that falls at some periods, remarkably dry. "During the S. W. Monsoon the wind blows with considerable force, though not with greater vio-

* This belief is very erroneous, and we shall some day, show that it is so.—Ed.
† The public bunglows on the summit.

ence than at Mysore and Comba'ore, pursuing its course over the extreme length of the Table land, and notwithstanding it passes to the hills over a wide and extensive tract of Jungle where fever prevails, it is perfectly devoid of any Miasmata before it ascends to the elevation of the Neelgherries. That such has hitherto been the case appears from the concurring testimony of the native inhabitants, both the Todawars, and Buddogurs, who are ignorant of any endemic complaint, and express their horror at the idea of any epidemic—a sufficient evidence that they have not been familiar with any such disease. Indeed the stout, athletic appearance of the Todawars bespeaks the salubrity of their native mountains."

The following satisfactory statement is from the same indefatigable gentleman.

"I have, since sending in this report, been making a minute enquiry whether any cholera has ever been known to exist on the hills. The result of my enquiries is, that until within the last ten or twelve days not a solitary instance had occurred. It seems that a man who died of the disease at Kotacherry, was taken ill with it in coming up the Ghaut, having clearly contracted it at Sreemoga, at the foot of the hills, where it has been very prevalent and fatal. With this exception, the hills have enjoyed a happy exemption from this dreadful scourge, which is the more remarkable, as the country immediately below has been frequently visited by this baneful malady, which has carried off many of the inhabitants. It is therefore evident, that, whatever may be the proximate and general cause of cholera, its influence ceases to exist at the elevation of the hills; otherwise the extensive population, now here would not escape the disease. Many of them too have frequent, indeed, constant, intercourse with the people below."

It ought to be noticed here, that the small pox occasionally visits these regions; and a few cases of Diarrhoea have recently occurred among the Kothurs, a low, filthy race, who eat with voracity the coarsest and most unwholesome kinds of food even, the carcasses of animals, by what disease soever they may have died. Such are their habits, that their general exemption from this and other diseases is a matter of astonishment, and can be attributed only to the purity of their mountain air.

Though the hills abound in medicinal plants, yet there does not appear to be one, with the virtues of which the inhabitants are acquainted, a collateral proof that they have but little occasion for these antidotes, otherwise they would, doubtless, ere this have discovered their properties.

The great extent to which the sound of the voice is conveyed may be mentioned in proof of the extreme purity of this atmosphere. A similar observation is made by Captain Parry in his voyage of discovery to the polar regions in 1819-20, (p. 125) where he states, that in the depth of winter, the sound of the men's voices was heard at a much greater distance than usual. This phenomenon is constantly observed on the Neelgherries. I have heard the natives, especially in the morning and evening when the air was still, carry on conversations from one hill to another, and that apparently without any extraordinary effort. They do not shout in the manner that strangers think necessary in order to be heard at so great a distance, but utter every syllable as distinctly as if they were conversing face to face. When listening to them, I have often been reminded of those passages of Holy Writ, where it is recorded, that Jonathan addressed the augural men of Sherhem from mount Gerizim; (Judges 9.7-20) that David cried from the top of an hill afar off; 1. Samuel and to the people that lay about their master Sami (1st Sam. 26. 13); and that Abner addressed Joab from "the top of an hill;" (2d Sam. 2.25, &c.) In the dense atmosphere of England, and even in the pure air of the plains of India, it is not easy to imagine how a discourse could have been carried on at so great a distance and from such an eminence; but on the Neelgherries the portions of sacred History to which I have referred, receive a striking illustration.

It is worthy of remark also, in proof of the rarity of the atmosphere, that the heavenly bodies appear with much greater brilliancy than when viewed from the plain. This is observed by all strangers; and one correctly remarked, that the planet Venus gave as much light as the moon in her quarters.

For an equable temperature, it is not too much to say, that it surpasses every climate in the world with which we are acquainted. During the thirteen months of my residence on the Neelgherries, I kept a Meteorological table with some care; but as it would occupy too much space to transcribe the whole, I shall insert only the Maximum and Minimum of the Thermometer in each month, and add a few observations on the variations of the weather.

1825.	Maximum	Minimum
March at 6 A. M.	59	45
at Noon	66	59
9 P. M.	59	50
April 6 A. M.	67	47
at Noon	67	52
9 P. M.	61	54
May 6 A. M.	60	50
at Noon	69	63
9 P. M.	62	55
June 6 A. M.	56	49
at Noon	67	62
9 P. M.	57	52
July 6 A. M.	55	50
at Noon	67	55
9 P. M.	58	51
August 6 A. M.	56	51
at Noon	65	56
9 P. M.	58	54

September 6 A. M.	54	43
at Noon	64	53
9 P. M.	57	49
October 6 A. M.	54	45
at Noon	63	53
9 P. M.	56	50
November 6 A. M.	55	43
at Noon	63	59
9 P. M.	57	46
December 6 A. M.	53	35
at Noon	63	58
1826. 9 P. M.	55	39
January 6 A. M.	56	31
at Noon	59	56
9 P. M.	54	43
February 6 A. M.	53	30
at Noon	63	57
9 P. M.	54	42
March 6 A. M.	50	34
at Noon	65	62
9 P. M.	59	51

It should be understood that my Thermometer hung in the open air morning and evening, and at noon in a room through which air was allowed to circulate.

It will be observed, that the temperature of the Neelgherries is upon an average 30 degrees lower than that of the coast, which ought to give an altitude of (30x300) 9000 feet. But in my second letter the elevation of Doddabetta, the loftiest peak, was given at 8700 feet above the level of the sea, and the height of Ootacamund where I resided, is about 1000 feet less. The temperature of this station being so much lower than its actual height would lead us to expect, may be accounted for in a great measure by the fact, that the sands of the sea coast, and the bare plain of the interior below, irradiate the sun's rays more rapidly than the green sward of the hills.

The Neelgherries are exposed to both the S. W. and N. E. monsoons; but notwithstanding this, I have no doubt, it would be found by careful observation, that less rain falls there throughout the year, than on either coast. During the S. W. monsoon of 1825, from May to September inclusive, there fell 39.70 in which is little more than half the average fall at Bombay in the same months, from 1817 to 1825 inclusive. The fall in the N. E. monsoon was comparatively trifling, being from October to December inclusive, 19.60 inches. The quantity that fell on the Eastern coast in the same season I have not ascertained.

In 1825, the frost commenced on the 11th of September, and prevailed, with some intermissions, till the end of the following March. This was unusually early, as it does not often appear before the middle of October. The sight of the ground covered with hoar frost is highly gratifying to an Englishman, as it revives pleasing associations that had, probably, not recurred to his mind since he left his dear native land; and, if I may be allowed to judge of others by myself, he is delighted to feel his fingers again pinched by the frost, at least, until it ceases to be a novelty. The pools and sides of streams in the valleys are frequently covered with a thin coat of ice, which for some time resists the sun's rays. Standing water is generally frozen, and on the 13th February I found some ice $\frac{1}{4}$ inch thick.

The great difference between the temperature of the small hills, and that of the valleys between them at sun rise, is a remarkable phenomenon on a frosty morning, my Thermometer has fallen to 20 deg. Fahrenheit, 19 deg. below the temperature at my chamber door, and that a descent of scarcely 150 feet. A friend has seen his Thermometer sink to 10 deg. below the last winter it sunk below 20 deg. for three successive mornings. Several solutions of this phenomenon have been offered, but as the following appears to be the most probable, I shall not trouble you with the rest.

"Take a tumbler and pour into it some cold water, say at 40 deg. you may then by means of a tube, very gently pour in some more water, at 80 deg. and over that some more at 120 deg.; each of these layers will be nearly distinct for some time, but if you reverse the experiment, the whole will be mixed, and an equilibrium established immediately, as the cold water sinks, and the hot rises. In the same way the cold air will fall to the low valleys along the sloping sides of the hills, and if you could place a number of thermometers at different elevations in a perpendicular line, in one of the cold valleys, you would find them show a higher and higher temperature, as you ascended, until the elevation itself began to influence the temperature; but if the wind blows and the air is agitated the different strata of air become mixed; and whenever the sun is up, the radiation from the earth heats the air incumbent on it."

This it should be observed is confined to the valleys and the equanimity of the air is restored shortly after the sun's rays have reached their depths. Nor have I ever observed this inequality of temperature when the wind has been violent, but an ordinary breeze does not produce the equilibrium.

To return from this digression. Let the register of the Thermometer given above be compared with the tables that have been published of the temperature at the Cape of Good Hope, the Isle of France, or any other climate to which invalids are accustomed to resort; and its superiority must appear to the most partial reader. Here we find none of those great and sudden transitions, nor of that excessive heat in summer, experienced at the Cape—to say nothing of the superior advantages derived, and the great expense saved, from the proximity of the Neelgherries to all the capitals of India. These advantages cannot but be obvious to all.

We have lately seen an account of the Mahabuleswar hills, in the Presidency of Bombay, where the writer promises similar advantages

to those of the Neelgherries. Their elevation is stated to be less than that of the Neelgherries by 3000 feet and the range of the Thermometer there corresponds with this difference of altitude. A person wishing merely to escape from the heat of Bombay, during the months of March, April and May, the season when the writer says their immunities are to be enjoyed, may find them serve his purpose; and a journey to the Neelgherries for so short a period would hardly remunerate the trouble and expense. But should an invalid require a twelve month's residence in a cold bracing climate, and wish to derive permanent benefit from his visit to such a region, no comparison can be instituted between the two ranges of hills in question, as the Mahabuleswar Hills, being immediately under the influence of the S. W. Monsoon, are not habitable for many months in the year. These observations, however, can be of service only to those in the vicinity of those hills, as no person at a distance. I should imagine, from the account of them already published, would think of visiting them in preference to the Neelgherries.

This introduces the visit, and that the most interesting criterion by which to form a correct opinion of this climate, viz. its actual effect on the Europeans who have resorted hither in quest of health. Here again I shall have recourse to my medical friend's report. After mentioning the elevation of the Hills, extreme rarity of the air, its freedom from vicissitude of temperature, and the general range of the Thermometer, he concludes—"These circumstances, coupled with the nature of the country, which is in general remarkably open, admits of horse exercise being conveniently taken, lead to the most satisfactory conclusion respecting the climate. Reading upon these facts, I shall only further add, that the general appearance of the Europeans on the Hills, goes in confirmation of their salubrity. It is only necessary to contrast the ruddy countenances of the children here with those in the low country, to be satisfied of the great superiority of the climate. There is, I believe, no instance of an European having given the climate a fair trial without deriving benefit from it."

To this it may be added, that the European workmen on the hills, are employed in the open air from sun rise to sun set, precisely in the way that they are in England, and with equal impunity.

There are two or three particulars relating to the climate that remain to be explained, its effect on the natives of the low country, on foreign plants, &c. In my last I promised also to describe in this letter the ascent to the Hills. But having already far exceeded the limits I have prescribed to myself for each communication, these points must be reserved for my next, and I will close with one more remark and another brief quotation.

Of the Gentlemen who have visited the Neelgherries, a great proportion have been of the Medical profession; and the whole have concurred in reporting favorably of the climate. One Gentleman, who last year visited them professionally, concludes his report as follows.

"From the effect of the climate on my own system, and from all that I have heard, read, and seen of the Neelgherries, I feel it to be a duty which I owe to my countrymen serving in India to beg of the Medical Board to use their influence with the Governor in Council to adopt such further measures, as in his wisdom, guided by their professional suggestions, may render them still more advantageous to Invalids."

I am, &c. &c. &c.

PHILANTHROPOS.

Coimbatore, Aug. 24, 1826.

MILITARY RETIRING FUND.

To the Editor of the Bengal Hurkaru.

SIR,—For many years back, but more especially since the institution of a Civil Annuity Fund in Bengal, under the sanction and support of the Hon'ble Court of Directors, a very general and anxious wish has prevailed in the Army, for the establishment of a Fund upon similar principles, for the benefit of the Military branch of the Service. The ready manner, and liberal consideration, with which the Court of Directors regarded a Memorial from the members of the Civil Service, soliciting permission to Establish a Fund in Bengal for granting Annuities to Civil Servants upon retirement, leaves little doubt as to the result of an application of the same nature, were it made on the part of the Officers of the Bengal Army.

The principles now in operation in the management of the Civil Annuity Fund, have been distinctly recognised and sanctioned by the Hon'ble Court of Directors; the object is to show that these principles are in every respect applicable to the Military Branch of the Service, and that a Military Annuity Fund formed upon the basis of the Bengal Civil Fund could not fail of producing the most important and beneficial results to the service in general.

In the Civil Annuity Fund, the number of Civil Servants on the Bengal Establishment, is computed at 450. Each subscriber pays 4 per cent. per annum upon his official salary or income, and the Company gives a donation towards the Fund equal to the whole amount of subscriptions, making a fixed income of 662,640 Rupees. This sum with fines from subscribers on becoming annuitants during the

earlier period of the operation of the Fund, and interest of money, constitutes a Fund equivalent to the purchase of annuities on the lives of nine individuals, the number eligible to retire annually after being 25 years in the service, upon an annuity of £1000 sterling, a separate allowance being made of £500 per annum, for those availing themselves of furlough, during the currency of the 25 years above mentioned.

With reference to the application of those advantages to the Military Branch of the Service, it may be stated, that a certain provision having already been made for Military Officers in retirement, it will not be necessary that the fixed income of the proposed Military Fund, should be more than equal to the retiring of a certain number of Officers, on an annuity of £500, which with the pensions they are allowed agreeably to their respective ranks, would it is presumed, place the Civil and Military Servants of the Company, *pari passu*, more upon a footing with each other. And here it may be remarked in reference to the Civil and Military Servants of the Company, that although their line of employment in the country is different from each other, yet they stand in no different relation whatever towards their Hon'ble masters; they enter the service with the same hopes—perform their respective duties with equal fidelity and honor, and it is therefore natural that they should look forward with the same laudable anxiety to revisit their native land, with an adequate provision, after a reasonable term of arduous and honourable service.

In submitting the following scheme for establishing a Military Annuity Fund, to the consideration of those who may concur in the propriety of memorializing the Hon'ble Court of Directors on the subject, it is hoped that the proposition may attract the attention of those in the superior ranks of the Service, who in promoting the object in view, so highly fraught with important advantages to the Army in general, will confer a benefit on their brother Officers, which must ever cause their names to be remembered with sentiments of gratitude, esteem, and regard.

SCHEME.	Pay of each rank pr. month.	Pay of each rank pr. year.	No. of each rank.	Total Pay of all Rks. per year.
Lt.-Cols., Comdg. Corps.	1300	16680	97	1,617,960
Majors, ...	750	9000	97	873,000
Captains, ...	431	5172	485	2,508,120
Lieutenants, ...	264	3168	970	3,072,960
Cornets and Ensigns, ...	200	2400	405	972,000
Surgeons, ...	409	4908	120	588,960
Assistant Surgeons	254	3048	230	701,040
			2404	10,334,340

Supposed sum for Staff Allowances, 2,500,000

Total amount of Pay and Allowances, Rs. 12,834,340

5

100,641,717.00

Annual Income of the Fund, being 5 per cent. on Pay and Allowances, 641,717

Interest for the current year, at 6 per cent. 38,503

Value of 12 annuities of £500 on lives at 45,680,220

From the above calculation it will appear, that in forming a Fund of the proposed description, the Army of itself will be instrumental in retiring twelve Officers yearly upon annuities of £500, and should the Honorable Company, actuated by that generosity which has always characterized its liberal and enlightened Government, for the same useful and wise purposes, confer a boon on their Military Servants in Bengal, equal to that which is now year by year enjoyed by the Civil branch of the service (viz. 326,320 Rupees) EIGHTEEN Officers would be eligible to the privileges of the Military Annuity Fund annually, which would only be double the number at liberty to avail themselves of the advantages of the Civil Fund.

In this way the Veteran Officer, having fought and bled in acquiring and maintaining the territorial rights and possessions of the Honorable Company, would be enabled to enjoy in the decline of his life, an adequate and suitable reward, the duties of the service would be performed by those in the most fit and active periods of their lives, and the evils arising from accidental loss of fortune and the too frequent improvidence of youth, would thus be obviated by a redeeming provision towards the production of which, the individual himself deriving the advantage would be in a great degree conducive.

These observations, it is ardently hoped, imperfect as they are, will lead to the prosecution of the subject by those better qualified to detail its importance, and to the adoption of such measures and as may be best calculated to accomplish so desirable an object.

The above scheme differs in nothing from the proposal contained in your paper of the 10th Instant by "a Captain," except in proposing that 5 per cent. should be charged upon the avowed income of Subscribers, instead of fixing the subscriptions, at a determinate rate agreeably to rank.

I am, Sir,

Your constant reader,

MILES VETERANUS.

Banks of the Jum na, 30th August, 1826.

[The India Gaz. Sept. 14.

Poetry.

TO A STAR.

Which shines in at Night through my Bed-room Window

HAIR, holy watcher of the night!
Whose ray my pillow visits still,
As oft as Day withdraws her light
Beyond the far Atlantic hill.
How sweet thy twinkling golden beam
Through night's unclouded ether strays,
To touch, perhaps, dull lids that dream
Well pleased of Mammou's brighter rays.

Wert thou among the starry lords
To whom the Persian bent his knee?
Thou wert, for heaven's bright host affords
No bery power could rival thee!
And still the shepherd wild, that dips
His foot in old Euphrates' flood,
Whatever accents rule his lips,
In heart, adores thee still as God!

For when the sun, they kindred, rears
His golden locks above the main,
With prostrate brow the Kurd appears
In open tent on Sinai's plain.
And when through Winter's cloudy roof
Thy struggling ray bursts brightly forth,
He deems that danger, far aloof,
Lies hid in caverns of the north.

And I, bright star, adore thee too,
Whose light doth kiss my eyes so oft,
No beauty hather in Cyprian dew,
With cheek as thy gentle beam soft,
Nor loveliness as some rocky height,
Gleaming to sunny o'er the billow.
I feel touched the heart with more delight,
Than thou, bright-shining on my pillow!

BION.

THE JOYS OF LIFE.

(Imitated from the Latin.)

There are the genuine joys of life:
A virtuous, kind and cheerful wife;
An income not procured by toil;
A small estate in fruitful soil;
An ever-living heart and face;
No change of suits, nor legal wars;
A healthy frame, a quiet mind,
Where frankness is to prudence joined;
Friends like one's self; a sprightly guest;
A table furnished with the best;
Evenings consumed in harmless sport;
Sleep which makes night seem wondrous short;
Content, that needs not wealth or power,
Nor fears, nor seeks the dying hour.

TO CORRESPONDENTS.

We have compared *SELIANA'S* *Strictures* with the letter to which he alludes, and should perhaps have given them publicity if he had made us acquainted with his real name.

Mr. Nobody's letter about *Fox-hunters* has been received, but too late for insertion this week—perhaps it may appear in our next should we be able in the interval to find out the drift of it.

EXCHANGE.

On London 6 months at 1 1/2 to 1 1/4.
Calcutta, 90 days 103 Bombay 10s. per 100 Siccas.
Madras, 30 days, 99 B. Y. Rs. per 100 Madras.
A five per cent bank open.

THE GAZETTE.

BOMBAY.

WEDNESDAY, 18TH OCTOBER 1826.

The arrivals since our last, have been the H. C. Ship of War *Amherst*, Capt. C. J. Maillard, Commander from the Gulf of Persia, and the Ship *Oscar*, C. W. Martin, Commander, from Cochin 21st September.

Passenger per Amherst.—Dr. Jones.
The Departures have been the Ships *Good Success*, W. Poynton, Commander to China, *Brig Crown* (Free Trader) J. Baird, Commander to Greenock, and the Ship *Atlanta* (Free Trader) W. Johnson, Commander to Alleppee and London.

Passenger per Good Success.—Mrs. Poynton.
Do per Brig Crown.—Capt. Smith, Miss Armstrong.

Do per Atlanta.—H. Agar Esq.
The *Amherst* left Bushire on the 15th Sept. and touched at Bassadore and Muscat, at which latter place it was ascertained, that His Highness the Imam with four of his ships were at Kishmee, with the Shaik of Bushire.

The accounts brought by the *Amherst* of the war, between Russia and Persia, we copy from our contemporary of the *Courier*, as being much better described and by far more intelligible than those sent to us.

Our readers will have no doubt find themselves amply repaid by a perusal of a letter which we have inserted in to-day's *Gazette* from the Bengal Hurkaru on the subject of the Neeigherries. To invalids it must be particularly gratifying to find that even in the month of May at noon the Thermometer does not stand above sixty-nine & that from the congeniality of the climate altogether, they stand as good if not a better chance of renewed health and strength in one half of the time they would take to go to the Cape, and one fourth of the time they would take to go to England, and in a much less ratio of expence than in the differences of time above specified.

BOMBAY COURIER.—OCTOBER 14.

The H. C. Cruiser *Amherst*, which arrived from the Persian Gulf on Wednesday last, has brought intelligence of the actual commencement of hostilities between the Russians and Persians. It would appear that the Prince Royal had pushed rapidly forward with a body of troops, and had succeeded by surprise in cutting up some of the Russian outposts, and in making himself master of their strong holds in the neighbourhood of the Caspian. These successes had been greatly exaggerated by the Persians, and whole battalions of Russians infantry were reported to have been either destroyed or to have laid down their arms. Our letters from Ispahan of the 18th August state, that General Ver-muloff, the Governor in Georgia, will be able to assemble almost immediately an army of forty or fifty thousand men, and it is to be feared that the aspect of affairs, here this undergone a wonderful change.

Since writing the above, we have been favoured with the subjoined further heads of intelligence received from Col. Macdonald's camp, which was at Zinjar on the 20th August eight days' journey from Tabriz. The Prince Royal had crossed the Araxes and taken prisoners a few Cossacs. A detachment of his army came up with a battalion of Russians commanded by a Lieut. Col. accompanied with four guns, and after a severe action three or four hundred of the Russians were killed, and the remainder were obliged to surrender as prisoners of war. The artillery was also captured. The Prince Royal continued to advance, and the inhabitants were eagerly taking advantage of his success to place themselves under the protection of Persia. Dissatisfaction prevailed in all the districts under the Russian authority, and a general revolt was talked of as not improbable. The Lesgees, and several of the other bold and daring tribes that occupy the fastnesses of the Caucasus, were said to be already under arms. The Russian commanders seemed to be completely taken by surprise, but their troops, though scattered, are said to be numerous and well-disciplined. The national and religious feelings of the Persians appear to have been greatly excited by the sermons of the Moolahs, and the war appears to be universally popular.

BOMBAY.

ARRIVALS.—Captain Capon, 2d Grenadiers.
Asst. Surgeon H. Michie, Medical Establishment.
Lieut. W. N. Trollope, Madras Rifle Corps.
Ensign H. G. Morse, 8th Regt. N. I.
Lieut. S. Poole, 1st Regt. Lt. Cy.
Lieut. & Adj. F. C. Carke, 4th Regt. N. I.
Lieut. Bouchier, 4th Regt. N. I.
Capt. F. Schular, Horse Brigade.
Surgeon C. Jones, Madras Establishment.
Capt. John Leighton, Asst. Adj. Genl.
Capt. J. Hancock, Pioneers.
Capt. R. W. Gillum, B. Mayor.
Lieut. H. Coventry, 20th Regt.
Capt. J. Smith, Cavalry.
Superint. Surgeon Ogilvy, Poonah Division.
Ensign Wade, 18th Regt.
Ensign Forbes, 4th Regt.
Lieut. G. Macan, 20th Regt.
DEPARTURES.—Capt. Smith.
Ensign F. Horn, H. M. 20th Regt.
Capt. Falconer.
Surgeon M. Hewith.
Assistant Surgeon H. Johnston.
Capt. J. Jopp, Dep. Surg. Genl.
Lieut. H. Coventry, 20th Regt.
Ensign P. K. Skinner, 9th Regt.
Capt. J. Hancock, Pioneers.
Ensign C. Threlkell, 10th Regt.
Asst. Surgeon Jas. Boyd.
Ensign J. W. Auld, 26th Regt.

NAUTICAL CHRONICLE

AND NAVAL REPORT.

BOMBAY.

ARRIVALS.—Oct. 10th The H. C. Ship of War *Amherst*, Capt. C. J. Maillard, Commander, from Gulf of Persia, left Bushire, 15th Sept. touched at Bassadore, and Muscat. The Highness the Imam of Muscat at Kishmee with four ships with the Shaik of Bushire.
14th Ship *Oscar*, C. W. Martin, Commr. from Cochin, 21st Sept.
Passenger per Amherst.—Dr. Jones.
DEPARTURES.—Oct. 13, Ship *Good Success*, Wm. Poynton, Commr. to China.
11th *Brig Crown* (Free Trader) J. Baird, Commr. to Greenock.
12th Ship *Atlanta*, (Free Trader) Wm. Johnson, Commr. to Alleppee and London.
Passengers by Good Success.—Mrs. Poynton.
By Crown Capt. Smith, Miss M. Armstrong.
By Atlanta, H. Agar, Esq.

SHIPS LOADING.

English.—Moro Castle, for London.
Boyne, for Do.
Cornwallis, for China.
James Scott, for Do.
Hannah, for Do.

CALCUTTA.

ARRIVALS.—September 26. Ship *Venus*, A. Hogue, from London, Madras 21st August, and Vizagapatam 17th September.—French Ship *La Rose*, F. Beck, from Bordeaux 31st May and Catania 6th September.—French Schooner *Les Deux Sophie*, M. Haman, from Bourbon and Mauritius 17th September.
September 27. Ship *King George the Fourth*, F. Butler, from Bombay 8th September.—Ship *Cabrass*, J. Small, from Muscat 23d August.—American *Brig Mars*, J. H. Titcombe, from Newbury Port 20th May.
Passengers per Venus, from London.—Mrs. A. Betts; Mrs. Philott; Miss Betts; Mr. Alfred Betts, Free Merchant; Master E. M. Betts; Mr. John Danby; and four Native Servants.

From Madras:—Mohedan Baba, Hosain Sahib, Sinda Baboo, Hosain, Sekunder, Shaik, Mahomed, Sahib, Hyder Ally, and Abdul Raiman, Merchants; Pifer J. Ghee; J. Delany, and one Servant.
Per French Ship *La Rose*, from Bordeaux:—Messrs. M. H. Triand and M. E. Chaigneau, Merchants.

From Manila:—Don Plorren, Anna Vican du General Martinez; Don Juan Martinez; Don Nicholas Martinez.

Per Ship *King George the Fourth*, from Bombay:—Mrs. Badwell, Mrs. Atherton, Mr. Page, and Captain Oliver, country service.

From Muscat:—Captain Hind, B. N. I.
Per Arab Ship *Cabrass*, from Muscat:—Five Parsees Merchants.

DEPARTURES.—September 25. Ship *Fergusson*, James Cunningham, for Rangoon.
Vessels expected to sail shortly:—Ship *La Belle Alliance*, H. Hunter, for London via Isle of France.

—Bark *Snipe*, R. Jameson, for New South Wales.
STATIONS OF VESSELS IN THE RIVER.

SEPTEMBER 26, 1826.

DIAMOND HARBOUR:—H. C. Ships *Marchioness* of Ely and *Prince Regent*, and *Palmyra*, inward-bound, remain.—*Eliza*, outward-bound, remains.—*Mahomed Bux* on her way to Town.—*La Rose*, (F.) *Les Deux Sophie*, (F.) and *King George the Fourth*, passed up.—William Wilson passed down.

NEW ANCHORAGE:—H. C. Ships *Lady Melville* and *Dunira*—Goiconda.

MADRAS.

ARRIVALS.—Sept. 29, H. C. Ship *Lady Raffles*, J. Coxwell, from London 24th May; do. Ship *Moreley*, G. Halliday, from London 26th May; Oct. 1, Ship *Hope*, J. T. E. Flint, from London 2d, and Portsmouth 9th June; do. *Brig Louise*, F. Hales, N. W. Island 3d August, and Pondicherry 5th Sept.; do. Ship *Frederick*, G. K. Douthwaite, from Calcutta 8th Sept.

DEPARTURES.—Sept. 28, Ship *Ephemia*, B. Boig, for Pinang, Malacca, Singapore and China; 29, Ship *Amid Bux*, B. D. Souza, for Jaffnapatam; 29, *Brig La Landais*, D. Eclewore, for Bourbon; 30, H. C. Ship *Rose*, T. Marais, for Calcutta; do. *Brig Lady Munro*, G. Cahon, for Cannanore; 4, Ship *Moreley*, G. Halliday, for Calcutta.

MARRIAGES, BIRTHS AND DEATHS.

BIRTHS.

On the 10th instant, at Rampart Row, Mrs. Robert Baxter of a Daughter, being her Seventh child.

On the 12th October 1826, in Rampart Row the Lady of E. C. Harrison, Esq. Garrison Surgeon, of a Son.

At Dapoolie, on the 29th ult. the Lady of Doctor Young, of a son.

At Satara, on the 5th Instant, the Lady of Captain H. Adams, of a son.

At the house of the Rev. T. Carr, Garrison Chaplain, on the 13th Instant, the Lady of the Rev. W. Mitchell, of the Church Missionary Society, of a Daughter.

DEATHS.—At Poona, on the 1st October 1826, Francis R. Lopes, writer in the Pay-Office. A young man cut off with six days malignant fever, at the early age of twenty-two years and married just four months, from a world, which to him had just begun to hold forth its firm promises, leaving a disconsolate Widow (parents and relations at Madras) to lament his loss, and his friends to regret their separation from a sincere and trustworthy companion. This tribute to his memory is offered by one who will long feel his loss.

At Poona, on the 2nd Instant, of fever, Lieut. Walter Stewart, of the 24th Regt. N. I. on this Establishment, deeply regretted by all who knew him, particularly by his Brother Officers, who have resolved on recording their sense of his worth and the loss their Society has experienced, by erecting a Tomb to his memory.

CALCUTTA.

MARRIAGES.—At Calcutta, on Friday, the 22d September, at the Roman Catholic Church of *Notre-Dame*, by the Reverend Fr. Simon, and subsequently at St. John's Cathedral, by the Reverend Dr. Young, Mr. William Polhill, Assistant Surveyor, to Miss Ann Appolonia, Daughter of the late Mr. Albert D'Mello.

At Calcutta, on Tuesday, the 26th September, at the New Church of St. Peter Fort William, by the Reverend Dr. Parnell, William Stuart, Mentecath, Lieutenant of the Honorable Company's 1st Extra Regiment Native Infantry, to Miss Sarah Brevita, Daughter of Captain Hamilton, of His Majesty's 16th Lancers.

BIRTHS.—At Ishapore Powder Works, on the 22d September, the Lady of Major Galloway, Agent for Gunpowder, of a Daughter.

At Futtighur, on the 5th September, the Lady of the Reverend William Fraser, Chaplain, of Futtighur, of a Daughter.

DEATHS.—At Calcutta, on Saturday, the 23d September, Mrs. Elspath Lyall, aged 40 years.

At Calcutta, on the night of Thursday, last, the 21st September, at the House of his Grandfather, M. Lackersteen, Esq. of a malignant fever, Antony, the infant Son and only child of the late Antony Borrett, Esq., aged 10 months and 10 days. The premature death of this interesting and promising child has cast a gloom in the circle of his relations, not soon to be dispelled, and has annihilated the fondest anticipations of his bereaved mother, and plunged her in the deepest distress and anguish: indeed no words can describe her agonized feelings. "He who took the young children into his arms and blessed them, took hers also; and, taking it, seemed to say, what I do thou knowest not now, but thou shalt know hereafter. Patiently suffer this little one to come unto me, for of such is my kingdom composed."

MADRAS.

BIRTHS.—At Trichinopoly, on the 24th September, the Lady of James Wyse, Esq. of a Son.

At Trichinopoly, on the 24th September, the Lady of John Bird, Esq. of a Son.

At Bangalore, on the 14th August, the Lady of the Reverend W. Campbell of a Daughter.

At Vellore, on Sunday the 1st Instant, the Lady of Lieutenant H. Cotton, Qr. Mr. and Paymaster, 10th Regiment N. I. of a Daughter.

At Secunderabad, on the 10th ultimo, the Lady of Lieutenant W. Agers, of the 2d Regiment Nizam's Infantry, of a Daughter.

DEATHS.—At Goa, on the 5th September, after an illness of several months, Susanna Jane, wife of Captain Paulton, of the 5th Regiment N. I. and eldest daughter of J. Leicester, Esq. of White-place near Reading, County Berks, a lady universally esteemed in life, whose death has deprived society of an ornament, and her husband and family of an affectionate wife and mother.

At Masulipatam, on the 26th Instant, Thomas Trotter, Esq. Superintendent Surgeon, Northern Division, much regretted.

At St. Thomas's Mount, on the morning of the 26th September, after a lingering illness, Captain and Paymaster Edward George Smith, of His Majesty's 51th Regiment.

At Trichinopoly, on the 8th Instant, Lieutenant Nixon, His Majesty's 48th Regiment, much regretted by his brother Officers.

At the Black Town, on the night of the 28th September, Mr. E. Kenny, of the Accountant General's Office, aged 28 years, deeply and sincerely regretted.

At Pondicherry, on the 27th September, Sent Ledger John Watkins, only Son of Captain A. Watkins, 7th Regiment Light Cavalry, aged 3 months and 24 days.

At Trichinopoly, on the 27th ultimo, the Infant Son of Garrison Sergeant Major Chisham.

At Madras, on the 25th September, Charles, the Infant Son of Mr. John De Vaz, aged 6th months and 15 days.

On Saturday, the 22d ultimo, Robert McLeod, the Infant Son of Mr. P. Karsaint, aged 6 months and 22 days.

EUROPE.

BRITISH PRESS.—May 22.

LONDON PHRENOLOGICAL SOCIETY.

At the Meeting of this Society on Thursday evening last, Edward and Leonard Schultz, the juvenile musicians from Vienna, who have twice been commanded to perform before His Majesty, were introduced by the Secretary. The elder is 13, the younger 11 years of age. In the former, in particular, the organ of *Imagination* is very prominent, besides a general excellent development of the intellectual and affective faculties.

Dr. Moore introduced Mr. Thomas Liddra, aged 16 years, to exhibit his talent for mental calculation. The following questions were proposed to and answered by him:—

What is the square root of 127,449?—357. Given in three quarters of a minute.

What is the cube root of 389,017?—73. Given in half a minute.

What is the product of 537 by 392?—210,504. Given in half a minute.

What is the product of 33,463 by 72,649?—2,791,443,753. This question took him several minutes to solve.

The organ of number so evident in the casts of Bidder, Colburn, and Noakes, did not in this instance seem to be greatly developed; and appeared from Mr. Liddra's own statement, that he had not possessed this power of calculation till about four years ago; that he had been under the tuition of an eminent master, and that the figures, as they appeared on paper, were strongly represented to his mind.

Mr. George Bidder, who was present, on being asked from the Chair whether he conceived Mr. Liddra to perform his calculations by the same mental process which he himself adopted, replied that it was evident the power had been acquired by Mr. Liddra in a manner totally different from that which had been early and spontaneously manifested in himself and Master G. Noakes, who was examined by the Society at a previous meeting; they neither associated the numbers with figures nor words, but possessed an intuitive perception of the proportions of quantities themselves. On being requested to explain the process by which he was assisted in his calculations, Mr. Bidder said that he could tell immediately, without any effort or calculation, the product of any two numbers below four figures each, as his mental multiplication table extended to a thousand; that when the numbers exceeded three figures, he always began with the highest number, as by so doing he was enabled to add, without carrying; that he had an instantaneous perception of the best among several modes of performing the same operation, and that he frequently availed himself of the peculiar properties of certain numbers.

With a view of putting to the proof the unimpaired state of Mr. Bidder's extraordinary faculties, Mr. Palmer, a gentleman present, proposed the following questions to him:—

Suppose a railway, whose inclination is 1 foot in 300, the friction 1/200th part of the weight, the carriage 3d of the load, the horse to employ a force of 150lbs. at 2 1/2 miles per hour, and the carriage to be loaded with pills, each weighing 5 grains Troy weight, how many pills will the horse take up?—12,823,000.

How much would these pills cost at three farthings each?—43,200.

Suppose a man to work 10 hours per day, and to make 15 pills in a minute, how long would he be making them?—1,536 days.

The first question was solved by Mr. Bidder in 23 seconds, and the remaining questions in three-quarters of a minute, the whole was accomplished in less than one minute and a quarter.

Mr. Charles Pemberton was introduced by Dr. Moore, and exhibited specimens both of his poetic and his scientific talents. The subject proposed to exemplify his facility of conception and talent for verification was the fall of Missolonghi, which he again recited to a crowded auditory on Saturday evening.

BENEVOLENCE.—During last week, a French General Officer, passing through Lancaster with his lady, visited the castle, and previous to quitting the yard, he inquired of the turnkey if he could point out any one of the debtors who was really unfortunate and deserving of assistance. The turnkey did so, upon which he inquired the amount of his debt, which was about 23s. This he paid into the hand of the gaoler, in order to the debtor being discharged. Mr. Higgins and the individual who received this marked act of benevolence, thanked him most cordially, and the latter succeeded in compromising the affair with his creditors for 6s. 8d. in the pound, leaving himself a handsome balance on his quitting the goal. The correspondent who has supplied this anecdote says, "I have used all the means I was able to learn the name of this generous Frenchman, but without effect; he expressed a wish that it should not be made public; he was one of Bonaparte's officers."

(See Supplement.)

BOMBAY.—PRINTED FOR THE PROPRIETORS, BY J. F. DE JESUS, IN MILITARY SQUARE No. 3.

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Gentlemen about to change their stations are requested to give notice to the PRINTER who will pay due attention to their orders.

SUPPLEMENT TO THE BOMBAY GAZETTE.

WEDNESDAY, 18th OCTOBER 1826.

COURT MARTIAL.

(Continued from our last.)

Q. Before it occurred to your recollection had Captain Robertson made any remark on the subject.

A. No.

Q. What gave rise to this conversation between Captain Robertson and you, and was any person present when it took place.

A. We were talking about the Court Martial, no person was present.

Q. Did you not at the Mess-Meeting convened by Colonel Williams on or about the 10th of May last, in reply to a question put by Colonel Williams say, you had never heard any reports against me either at Colabah, or Poonah.

A. I did.

Q. To your knowledge was it a common topic of conversation among the Officers at Colabah that a Criminal intercourse subsisted between Cooke and myself.

A. I never was present at a conversation of the kind.

Re-examined by the Prosecutor.

Q. Did Lieut. Colonel Williams know any thing relative to what you have stated in evidence until you came voluntarily and communicated it to him.

A. No, not to my knowledge.

Examined by the Court.

Q. Did you ever observe any undue intercourse between Mr. McKenzie and Cooke not merely as relates to the possible disobedience of orders in allowing Cooke to attend him as a servant, but as regards the personal deportment of the Prisoner towards Cooke.

A. No, to the best of my recollection I never saw Cooke in Mr. McKenzie's Bungalow before that occasion or afterwards.

Q. Will you state to the Court why you were surprised at the request made to you concerning Cooke by the Prisoner or in other words why you thought it an extraordinary request.

A. As had the Prisoner not known that he was acting wrong in having the man in his house he would not have made the request to me to conceal my having seen him there.

Q. Was there then in your opinion any thing extraordinary in the Prisoner wishing it not to be known that he had disobeyed orders.

A. Certainly not, there was nothing extraordinary in his wishing it to be concealed if he was acting in disobedience of orders.

Lieut. Raitt withdraws.

Captain McLean H. M. 2d. or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. I do.

Q. Were not the circumstances that were canvassed on these occasions of such a nature as to be highly disgraceful to the character of the Prisoner as an Officer.

A. They were.

Q. Will you state if you please to the Court what these circumstances were.

A. About nine or ten months ago, I think, at Colabah an Officer of the Regiment speaking of Lieut. McKenzie said, that from the extreme intimacy Mr. McKenzie had with a man named Cooke that it was strongly suspected there was a Criminal intercourse between them. This is the purport of what he said, but I do not recollect the exact words that he used.

Q. Who were the Officers present at this conversation.

A. Mr. Meldrum and Mr. Kennedy.

Cross Examined by the Prisoner.

Q. How often have you been present at conversations of the kind you have just deposed to.

A. I don't recollect any other particular time, though I have heard flying reports of the same kind.

Q. Did you ever directly or indirectly convey to me these reports.

A. I did not, because I did not believe the Criminal part of them and I thought it would render you miserable for life if you knew of the reports that were in circulation.

Q. Did you report this circumstance to the Commanding Officer.

A. I did not.

Q. As Senior Captain of the Regiment was it not your duty to report the circumstance to the Commanding Officer.

A. I decline answering the question.

Q. Did you in consequence of these reports respecting Cooke and myself think it necessary to alter your conduct towards me, or to abate from the terms of acquaintance that subsisted between us.

A. I certainly kept up the acquaintance, because as I have before said I did not believe the Criminal part of the reports. I have been very little with the Regiment since it came to India, not above two or three months.

Q. State the names of the persons from whom you first heard these reports, and the time when.

A. I mentioned before nine or ten months ago, and Mr. Meldrum as far as I recollect was the first person I heard them from, I don't remember particularly the name of any other person.

Q. From your own personal knowledge have you ever known any thing against my character and honor as an Officer and a Gentleman.

A. No, I have not.

Q. Besides the conversation above deposed to state as nearly as possible the precise terms of the reports you heard to my prejudice respecting Cooke.

A. I did not pay any particular attention to these reports, but they seemed to imply that an improper intimacy subsisted between you and Cooke.

Q. To your own knowledge were these reports a common topic of conversation among the Officers of the Regiment.

A. I do not know, except what I heard as above deposed to.

Examined by the Court.

Q. Had you ever any occasion to observe that an undue intercourse subsisted between the Prisoner and Cooke as regards the personal deportment of the former towards the latter.

A. I don't recollect ever having seen Cooke in my life-time so as to know him—I joined the Regiment two months after it arrived in this Country, and I remained in charge of the depot at Colabah when the Regiment marched to Poonah.

Captain McLean withdraws.

Lieutenant Kennedy of H. M. 2d. or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Have you not lived since you joined the Regiment in habits of intimacy with the Prisoner, and always professed a very warm friendship for him.

A. From about a month after we embarked on board ship I have.

Q. Were you present at a conversation at Colabah with Captain McLean and Lieutenant Meldrum of the Regiment, in which circumstances were mentioned of the most scandalous nature with reference to the Prisoner.

A. I can't exactly answer the question, but I will state what I then heard to the best of my recollection—It was in my own room before Mr. Belford of the Regiment, Captain McLean came in and Mr. Meldrum came in shortly afterward, and the conversation turned on a man of the Regiment, named William Cooke of the Light Company who had died a day or two before and was begun by Mr. Meldrum—I had been called by the Hospital, Serjeant at the desire of the dying man Cooke to his death bed in the Hospital, and I suppose my having been there partly led to the conversation which Mr. Meldrum began—I don't exactly recollect all that was said but Mr. Meldrum said that Mr. McKenzie had been a black sight, or something to that meaning to this man Cooke, I said that I could not see that at all for Mr. McKenzie had treated him most kindly.—I then stated in what way, by giving him clothes and other things and being very kind to the man, Mr. Meldrum then said that this man had been promoted to the rank of Serjeant and that through Mr. McKenzie he had been broken—I said that this was not the case in my opinion as Cooke had been drunk on guard & broke for that and that Mr. McKenzie could, I thought, have nothing to do with that, because to the best of my recollection he was ill and confined at the time.—I can't say at this distance of time whether Captain McLean joined in the conversation or not, but, I think, he did a little, and that little to the same meaning as Mr. Meldrum. At length when Mr. Meldrum perceived that I thought Mr. McKenzie had treated this man Cooke with kindness and had not in my opinion been in any way instrumental to his being broke, he went on by saying that he had been too kind to him, and that his kindness had been remarked to be add or excessive by some of the Officers of the Regiment.—This was in my own room, afterwards Mr. Meldrum continued the conversation without any assistance from Captain McLean and gave me to understand that Mr. McKenzie had been kind to this man for improper purposes.

Q. Did you communicate to the Prisoner the whole or any part of this conversation.

A. Long after I communicated part of the conversation to Mr. McKenzie in confidence, but nothing with regard to the Criminal part of it respecting improper purposes. It was a subject that I could never enter upon with any man. I got indignant at this conversation and said that it was a malicious lie and that I would report it to Colonel Williams and also write it up to Mr. McKenzie immediately Mr. Meldrum said he never believed it. I said it was wrong for him to talk about it. He repeated that he never believed it, and how could he associate with Mr. McKenzie and go to his house if he believed it. He mentioned it because he was sorry to hear those reports flying about.—Captain McLean also said he never believed it, and that my making a noise about it would be only creating a disturbance in the Regiment and would serve no good end but only distress Mr. McKenzie, because how could he find out who had raised the report and set it a-going.—Captain McLean gave me that advice not only that night but early next morning.—Mr. Meldrum also came back the next day or the day after and repeated what he had said the night before about not believing the reports, I followed at that time the advice given me by Captain McLean.

Q. Do you recollect about what time it was that you made the communication you mention to the Prisoner.

A. Not exactly—it was near the end of the visit which Mr. McKenzie, when on Court Martial at Poonah came down and paid to Mr. Meldrum at Bombay.

Q. The Regiment left Colabah on or about the 12th December last, how long you think it might have been before that time.

A. I don't remember.

Q. Did you after the death of the late private William Cooke of the Regiment claim and receive his trunk and different articles of wearing apparel.

A. I got a Box, if I remember right, which the man left to Mr. McKenzie, in fact he left almost all that he had to Mr. McKenzie, as he told me he never would forget Mr. McKenzie's kindness, and that he had got almost all from him, I think this was what he said, I reported the same evening

to the Captain of Cooke's Company by note that he had left his property whatever it might be to Mr. McKenzie.

Q. Be good enough to state to the Court what these articles were and to whom they belonged.

A. I cannot state what the articles were, as I don't remember, Cooke's comrade a man of the light Company named Payne brought them to me and I thought of course that they belonged to Cooke.

Q. Was the Box with Cooke's things delivered by you to Mr. McKenzie.

A. My Servant gave it to him, and I think I was present at the time.

Examined by the Court.

Q. Was it shortly before the late William Cooke died that you heard him say that he would never forget Lieutenant McKenzie's kindness to him.

A. He was just dying when he said it to me, and did not, I believe, live more than an hour afterwards.

Q. Do you know how Mr. McKenzie disposed of the articles in Cooke's Box which was delivered to him by your Servant.

A. If I remember right he gave away every thing except one article, but what that was I cannot recollect, I think it was a bedding.

Lieut. Kennedy withdraws.

The Court is now adjourned until Monday next at 11 O'clock of the forenoon.

SIXTH DAY.

Monday 10th July 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present: the same Members as on Saturday last. Read over the Proceedings of Saturday last.

Captain Lawson, H. M. 2d. or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstance in the conduct of the prisoner with respect to the late private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. I do.

Q. Were not these circumstances that were canvassed on these occasions of such a nature as to be highly disgraceful to the character of the prisoner as an Officer.

A. Certainly.

Q. Will you state if you please to the Court what these circumstances were.

A. I merely allude to what I have heard that Cooke when Serjeant on the Hospital Guard was found drunk at Mr. McKenzie's quarters and that after this Cooke was reduced the report in the Regiment was that he was in the habit of going to Mr. McKenzie's quarters, and when Cooke died it was the subject of animadversion in the Regiment the extraordinary circumstance of a private Soldier leaving his kit to an Officer.

Q. Were there no other reports in circulation respecting the Prisoner and Cooke.

A. I have heard no other reports.

Q. Have you any knowledge or recollection where or how these reports originated, or from whom you first heard them.

A. It is impossible for they were the subject of common conversation amongst the majority of the Officers of the Regiment, and I heard them first on board ship.

Q. Were these reports to which you allude whispered in secret, or were they publicly circulated amongst the Officers.

A. I heard it commonly talked of publicly, and most unreservedly.

Q. Did you ever hear that the late Private Cooke was called or known by a female name.

A. Yes, I heard him called Mr. McKenzie on one particular occasion the only time that I ever saw Cooke, on the disembarkation of the Regiment from Europe.

Cross Examined by the Prisoner.

Q. What was there in the reports you heard that induced you to be of opinion that they were highly disgraceful to me.

A. The conclusion that would naturally be formed from an intimacy subsisting between a master and servant or an Officer and a Soldier.

Q. Describe the conclusion you mean to say would be naturally drawn.

A. I never saw the parties together and formed my opinions entirely from report and I thought it extremely improper indeed that such an association should subsist.

Q. When speaking of these matters did the persons accompany them by such proofs as to induce you to give credence to them.

A. There were no proofs given, but I certainly gave credence to the circumstances of Cooke's being drunk at Mr. McKenzie's quarters and his going subsequently there, because I never heard them contradicted.

Q. Did you ever convey these reports to me, or can you say that I was ever made acquainted with them.

A. I did not, and it is impossible for me to say whether you were ever made acquainted with them or not.

Q. By whom did you hear the late private Cooke called Mrs. McKenzie, what reason was given for this appellation and did you make any observation on a circumstance so obviously improper.

A. There were four or five Officers present, one of whom said there is Mrs. McKenzie, and on my turning round I saw Cooke standing sentry, I understood the allusion perfectly but made no comment myself.

Q. Was any reason given for this appellation and how did you understand the allusion.

A. There was no reason given—I understood by it that an undue intercourse had taken place between Lieut. McKenzie and Cooke.

Q. Relate what you ever heard to induce you to form that opinion.

A. I have heard that Lieutenant McKenzie has frequently requested that Cooke might be excused from his night-watch and that he was in the habit of getting from the Cuddie Stewart Soup, Port wine, and Cheese

and giving them to Cooke, and I have, also, heard that he has concealed at night Wine and water, and Brandy and water where the Colours were placed for the use of Cooke and the young midshipmen having found it out used to go and drink it.

Q. From whom have you heard that I made the request you have just deposed to.

A. From Ensign Dixon of the Regiment.

Q. From whom did you hear these reports.

A. About Tiffin from Ensign now Lieutenant Cooper, and Ensign Dixon and respecting the latter I think I heard it from Lieut. Carruthers.

Q. Do you mean to say it was from the manner in which Lieutenants Carruthers and Cooper and Ensign Dixon mentioned these reports that you drew the conclusion of an undue intercourse.

A. I say from all these circumstances combined—I did not from this opinion on board Ship my previous intimacy and even confidential friendship in the early part of the voyage with the prisoner rendered me unwilling to believe any thing to his prejudice, and I ascribed to weakness his partiality for Cooke.

Examined by the Court.

Q. Did you ever mention to Lieut. Colonel Williams the reports which you heard respecting the Prisoner and Cooke.

A. Not, until I was called upon by Lieutenant Colonel Williams early in last May.

Q. Did you withdraw your intimacy from Lieutenant McKenzie in consequence of the reports you mention.

A. From that and other circumstances our friendship subsided into a cool civility.

Q. Did Lieut. McKenzie ever enquire from you the cause of your dropping the intimacy that had existed between you and him.

A. No, he never asked me that question.

Captain Lawson withdraws.
Lieutenant King, H. M. 2d. or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember on or about the night of the 7th June 1825, having been disturbed at an unreasonable hour of the night by the late Private William Cooke, then a Serjeant in the Regiment.

A. Yes, I remember on the night of the 7th June the day on which the Regiment landed at Colabah, Serjeant Cooke coming to my quarters two or three times in search of Mr. McKenzie.—At the time I naturally concluded that he wished to see Mr. McKenzie on some point of duty but I have since found out that this Serjeant Cooke did not belong to Mr. McKenzie's Company nor was he on any duty whatever.

Q. Did you ever remark subsequently to this occurrence that Cooke went very frequently to Lieutenant McKenzie's quarters.

A. I have seen Cooke after he was reduced from Serjeant often go down the lane leading to Mr. McKenzie's quarters where he lived with Captain Jackson.

Q. Was there any thing in the situation of your Bungalow that enabled you to observe Private Cooke going frequently to Lieutenant McKenzie's quarters.

A. It was situated in the corner of the lane leading to the Bungalow in which Mr. McKenzie resided.

Q. Have you made any remark to any Officer of the Regiment or expressed what you thought of Cooke's visits to Lieutenant McKenzie.

A. Yes, I have—expressed them at the time to Captain Jackson that I saw Cooke going down the lane leading to the Bungalow.

Q. Will you state to the Court, as well as you can recollect the substance of these remarks.

A. I remarked to Captain Jackson that I thought it extremely extraordinary that Mr. McKenzie should allow this man to attend at his Bungalow after he had been prohibited and had given his word to the Adjutant that he would have no further communication with him.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. I do,—I have heard of Cooke leaving the Prisoner the whole of his kit.

Cross Examined by the Prisoner.

Q. From your knowledge of Captain Jackson how do you suppose he would have acted had he considered there was any thing wrong in Cooke's coming to our house.

A. From my knowledge of Captain Jackson very little communication took place between him and the Prisoner at Colabah—but I don't know how he would have acted on such an occasion.

Q. Did you ever alter your demeanor towards me in consequence of any reports you may have heard from June 1825, to 1st May 1826.

A. No, I did not—I never was intimate with Mr. McKenzie.

Q. Since the 1st of May have you altered your demeanor towards me.

A. Certainly, I have.

Q. Mention the cause.

A. By Mr. McKenzie in the first place having refused to prosecute a man who had been found in a bed in his Bungalow, and secondly by hearing an Officer out of my own Regiment talking of its being an extraordinary circumstance.

Q. What Officer out of the Regiment do you allude to.

A. Mr. Eyre.

Q. Did you ever witness any thing in me that was derogatory to the character of an Officer and a Gentleman.

A. No, I have not.

Examined by the Court.

Q. Was the lane which passed your house at Colabah a thoroughfare or did it lead to Lieutenant McKenzie's quarters only.

A. It was a thoroughfare.

Q. Did you ever see Cooke enter the quarters of Lieut. McKenzie at any time—and if so how often.

A. Never.

Q. Did you ever yourself observe at Colabah any undue intercourse between the Prisoner and Cooke as regarded their personal deportment towards each other.

A. No, I have never seen them together.

Q. How did you know that Cooke was prohibited from going to Mr. McKenzie's quarters, and that Mr. McKenzie had given his word to the Adjutant that he would have no further communication with Cooke.

A. I was informed of it by the Adjutant, the very day after, I believe, that he had spoken to Mr. McKenzie on the subject.

Lieutenant King withdraws.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

SEVENTH DAY.

TUESDAY 11th JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as Yesterday.

Read over the Proceedings of Yesterday. Captain Graham H. M. 2d or Queen Royal Regiment and Aid-de-Camp, to the Honourable the Governor called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. I do.

Q. What were the import and tendency of these circumstances.

A. The circumstances I allude to were Private Cooke being in the habit of being employed by Mr. McKenzie contrary to repeated orders and after having promised the Adjutant not to do so—which created many extraordinary reports implying a suspicion of an unnatural crime on the part of the Prisoner and Cooke.

Q. Can you state from your recollections when, where, and with whom the unfavorable report respecting the Prisoner first originated.

A. I can state from whom they originated but the first time I heard them was at Colabah in September or October last.

Q. Did you ever hear any thing insinuated against the Prisoner's character, prior to the period you have just mentioned.

A. I have heard it thought extraordinary the Prisoner's associating with Private Cooke, but I do not recollect having heard any report of the kind above deposed to until after Cooke's death.

Cross Examined by the Prisoner.

Q. How do you know that I was prohibited from employing Cooke and that I had given my word to the Adjutant that I would not do so.

A. I have heard so from Major Johnstone and from the Adjutant.

Q. Did Major Johnstone inform you that I had pledged my word that I would not employ Cooke.

A. No, he did not—but Mr. Littlejohn did.

Q. Did Major Johnstone and the Adjutant inform you that I had been repeatedly ordered not to employ Cooke.

A. Each of them told me that he had once if not twice ordered you.

Q. From whom did you first hear the reports you have above deposed to.

A. I do not recollect from whom I first heard them.

Q. Did you believe this reports.

A. I did.

Q. What induced you to believe them.

A. The extraordinary attachment that there seemed to be between you and Private Cooke the commencement of which I witnessed on board ship; and the repeated scrape which its continuance brought you into with your Commanding Officer—and lastly the extraordinary circumstance of Private Cooke's leaving at his death his wearing apparel and all his necessities to you.

Q. Mention any particular instances of attachment to Cooke that you ever witnessed on my part.

A. As Serjeant I have seen him on board Ship employed about your person, once carrying up your bed on Deck, and doing other services, although he was ordered not to do so by the Adjutant.

Q. Did you ever witness any instances of attachment on my part towards Cooke at Colabah.

A. No, I did not.

Q. What were the repeated scrapes in which I got into with my Commanding Officer on account of Cooke.

A. I heard from Captain Waring the Commanding Officer of your Company that Colonel Williams had more than once occasion to find fault with you on this account, and I think I have also heard Colonel Williams say so at Colabah.

Q. What do you mean by my associating with private Cooke.

A. I mean you employing him about your person.

Q. Did you ever mention to me the reports you have above deposed to.

A. No, never.

Q. Did you ever observe any conduct on my part derogatory to the character of an Officer and a Gentleman.

A. No.

Q. In the month of November when I returned to Bombay from Poonah did you drop my acquaintance.

A. No, I did not.

Examined by the Court.

Q. You state that by associating with Cooke you mean the Prisoner's employing him about his person did you ever personally observe any thing in their deportment towards each other which could be denominated undue intercourse.

A. No, I did not.

Captain Graham Withdraws.

Ensign Dickson, H. M. 2d or Queen Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the prisoner with respect to the late private Cooke which became the subject of conversation when quartered at Colabah.

A. I do.

Q. What were the import and tendency of these circumstances.

A. They all hinted that a disgraceful intimacy subsisted between the prisoner and Cooke.

Q. Can you state from your own knowledge or recollection the time when, the place where and the party with whom these reports respecting the Prisoner and Cooke originated.

A. I heard the reports first on board Ship, where all the Officers used to be talking of the kindness which the Prisoner shewed to this man Cooke. But I do not recollect from whom these reports originated.

Q. Did you in consequence of these reports alter your general conduct towards the Prisoner.

A. Not exactly in consequence of these reports, as I did not believe the Criminal part of them. But I had other reasons for being cool and distant to him.

Cross Examined by the Prisoner.

Q. What were the circumstances which were the subject of conversation at Colabah.

A. That this man Cooke was found drunk at your quarters and that he was in the habit of sleeping in your room, and I heard a great many other reports and surmises respecting a scandalous intimacy which subsisted between the parties that I do not recollect as there were so many of them.

Q. Can you name any one Officer who ever said that a scandalous intimacy subsisted between the parties.

A. I cannot name any one Officer.

Q. Did you yourself ever say so.

A. I did not, but I have said that it looked very odd and gave rise to very odd conjectures.

Q. Do you from your own knowledge know that Cooke slept in your room, if not, name the person from whom you received this information.

A. I do not from my own knowledge, but I have heard Officers say so though I cannot recollect who they were.

Q. When the Officers on board Ship were talking of the kindness which I shewed Cooke did any one of them say that an improper intimacy subsisted between me and Cooke.

A. Yes, they all said that they supposed an improper intimacy must subsist between you.

Q. Name these Officers.

A. Lieutenant Keith, Lieutenant Carruthers, Lieutenant Meldrum, Ensign Cooper, Capt. Lawson, Ensign Fisher, Lieutenant Dalway. These were the Officers who used to talk about the intimacy that subsisted between you and Cooke.

Q. Did Major Johnstone and Lieut. Kennedy come out in the same Ship.

A. They did.

Q. Did I live in a separate cabin on board Ship.

A. No. But you were most part of the day in Lieut. Kennedy's cabin.

Q. How many Officers were there in the cabin in which I slept.

A. Eight, besides yourself.

Q. Do you think it possible that a person, situated as I was on board Ship, could have had Criminal intimacy with any man without its being immediately known.

A. I do think it possible.

Q. Explain in what manner.

A. There was a private cabin of Lieut. Kennedy's in which the intimacy might have taken place.

Q. Was not this cabin always open and generally frequented by the Officers on board Ship.

A. It was for the first six or eight weeks after we sailed generally frequented by the Officers, but during the latter part of the voyage none of the Officers went into it except myself and Lieut. McKenzie.

Q. Did you ever either on board Ship or at any other time observe any thing improper in my conduct towards Cooke or Cooke's towards me.

A. I have seen you talking with familiarity to

him and frequently giving him tiffin in Lieut. Kennedy's cabin. I don't recollect having seen any thing improper at Colabah.

Q. Was Lieut. Kennedy present when something to eat was given to Cooke in his cabin.

A. Sometimes he was, and sometimes not.

Q. Did you ever witness any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. Yes, I have, you have been guilty of telling me three falsehoods.

Q. What were these.

A. The first one was two or three days after our arrival in India. Mr. McKenzie was Officer of the day, it was about one o'clock of the day when the Serjeant came to tell him that the dinners were ready for his inspection. The prisoner requested me to inspect them for him as he was just going to Bombay, pointing at the same time to his Palankeen and Bearers. I said I would, and went round the dinners with the Serjeant, when I came back after some time I found Lieut. McKenzie sitting in the Adjutant's quarters where I had left him, and he did not go to Bombay till four or five o'clock that evening. The second was he was on orderly duty in the latter end of September last and wrote me a note in the morning requesting that I would take his orderly duty for him as he had business to transact in Bombay. I shewed this note to Lieut. King who was in the Bungalow at the time, my answer to his note was, that I would be most happy to take his duty if he got permission from the Commanding officer, but that I could not take it otherwise. Lieut. King saw my note in answer to his, I thought nothing more of it till about two hours afterwards the orderly Serjeant came to me and told me that Mr. McKenzie had gone to Bombay in his palankeen and desired him to come to me as I had promised to do the duty. I was very much surprised at Mr. McKenzie's conduct and immediately went to the Adjutant's quarters but unluckily he was also gone to Bombay. I then went to Captain Lawson the Captain of my company to ask what I had better do. He advised me to go round the dinners and do the duty until Mr. McKenzie came back from Bombay. I did do the duty, as soon as Mr. McKenzie came back from Bombay I went to him and expressed my surprise at his conduct after my note saying that I could not do his duty, when he said that he understood by my note that I would be most happy to do it. He then denied having written to me in the morning but admitted that he had sent the Serjeant to me. I mentioned the whole of this circumstance at the time to Captain Lawson and other Officers. Third one was about seven or eight weeks ago the Prisoner came up to me one morning on Parade, at this time there were a great many candidates for the Light Company and myself among the number. The Prisoner said to me, "Dickson, I don't think you will get into the Light Company, as from what Captain Brough has said to me I think he will present you getting in." I went to Captain Brough's soon after and asked him if he had spoken to the Prisoner about my getting into the Light Company, and he said that he never had spoken about me to the Prisoner at all and had not spoken to him for some time before.

Q. Was any person present when I spoke to you in the manner you have above deposed.

A. Not on the two last occasions, but on the first occasion there were several Officers in the Bungalow, but I do not know whether they heard what you said.

Ensign Dickson withdraws.

Lieutenant Carruthers H. M. 2d or Queen's Royal Regiment, called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. Yes.

Q. Will you state if you please to the Court what these circumstances were.

A. The familiarity and intimacy that there was between the Prisoner and Cooke.

Q. Did that familiarity and intimacy occasion any reports to the prejudice of the Prisoner, and if so, what were their import and tendency.

A. Certainly, it was a subject of conversation among us that from Cooke's going to the Prisoner's quarters contrary to the Commanding Officer's orders all was not going on right there.

Q. Can you state from your own knowledge or recollection the time when, the place where or the party with whom these reports originated.

A. On board Ship the first reports were. The Officers in the Cabin observed the Prisoner's familiarity and intimacy with this man, and they became a subject of conversation among us.

Cross Examined by the Prisoner.

Q. What do you mean by familiarity and intimacy.

A. Associating with a private Soldier.

Q. Did you ever see me associating in any manner with Cooke.

A. No, But I have heard that you have associated with him in Mr. Kennedy's Cabin having down tiffin and grog for him.

Q. Did you hear that I eat and drank with Cooke.

A. No, But that you were in the Cabin at the time.

Q. Can you state the precise terms, or their import of any conversation that you ever heard relating to myself and Cooke.

A. No, nothing farther than that you were very intimate with the man.

Q. Did you ever hear Cooke called Mrs. McKenzie.

A. Yes.

Q. State the time and occasion.

A. It was when he was sentry on the right Guard room, after he was reduced, and he was walking up and down and some one of the Officers present remarked there goes Mr. McKenzie.

Q. Who made this remark, and what Officers were present.

A. I don't recollect who made the remark. To

the best of my memory Captain Lawson, Lieut. Keith were present and several other Officers whose names I do not recollect.

Q. Was any reason given for calling Cooke by this name, or any observation made on it at the time by any one present.

A. No, I don't think there was.

Q. Did you ever witness any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. No, I have certainly not to the best of my knowledge.

Examined by the Court.

Q. Did you ever bring the reports you say you have heard to the prejudice of the Prisoner's character to his notice.

A. No.

Lieutenant Carruthers withdraws.

The Court is now adjourned until to-morrow forenoon at 11 o'clock.

EIGHTH DAY.

WEDNESDAY 12th JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday. Lieutenant Cooper H. M. 2d, or Queen Royal Regiment, called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. Yes, I do.

Q. What were the import and tendency of these conversation.

A. That there was too great an intimacy between the Prisoner and Cooke.

Q. Can you state from your knowledge or recollection when and where the conduct of the Prisoner towards Cooke was first remarked and spoken of.

A. First on board Ship and afterwards at Colabah.

Q. What was the nature or tendency of the observation that were generally made on this subject.

A. That an undue intercourse subsisted between the parties.

Cross Examined by the Prisoner.

Q. Did you ever hear any Officer expressly say that an undue intercourse subsisted between me and Cooke.

A. Yes.

Q. Name the Officer or Officers.

A. Lieutenant Keith, Lieut. Dalway, Lieut. Carruthers, Captain Lawson, and Ensign Dickson.

Q. Did you ever say so yourself.

A. Yes.

Q. What do you mean by undue intercourse.

A. Too great an intimacy between an Officer and a Soldier.

Q. You do not mean a Criminal intimacy.

A. I do not.

Q. Did you ever witness any instances of too great an intimacy between me and Cooke, if so state the particulars.

A. Once on board Ship I saw Cooke eating some kind of tiffin in the cabin in which Mr. McKenzie was. But I do not recollect any other instances.

Q. Did you hear Cooke called Mrs. McKenzie.

A. No, I do not recollect that I ever did.

Q. Has any thing that you ever heard relating to myself and Cooke induced you to relax in your intimacy with me.

A. No.

Q. Did you ever observe any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. No, I did not.

Examined by the Court.

Q. Was any other person in the cabin with the Prisoner when you saw Cooke eating there.

A. Yes, Lieutenant Kennedy.

Q. Was the cabin door open at this time.

A. No, I saw them in consequence of my going into the cabin.

Q. Did you ever acquaint the Prisoner with the remarks made on the intimacy you state to have existed between the Prisoner and Cooke.

A. No.

Lieutenant Cooper withdraws.

Lieutenant Lyster, H. M. 2d, or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember soon after the arrival of the Regiment at Colabah to have been disturbed by the late Private Cooke at an unreasonable hour of the night.

A. I do.

Q. State to the Court the particulars of that disturbance and what you said and did on the occasion.

A. Shortly after we arrived, Cooke was in my quarters, I can't say at what hour but it was after Tatoo, and said that he wanted to see Mr. McKenzie, I told him that I thought he wanted Mr. Meldrum seeing that he belonged to the Light Company, but he said not that he wanted Mr. McKenzie, I told him he was not in a fit state to go to any Officer as he was quite stupid from liquor, and I sent him to his Barracks.

Q. Had you been asleep for any and what time before this disturbance.

A. I had been asleep, but I cannot swear to the length of the time.

Q. Did Cooke offer any explanation of his conduct or mention his business with Lieut. McKenzie at such an hour.

A. No, he did not.

Q. Did the novelty of this occurrence excite any remark in your own mind, and did you communicate such remark to any of the Officers.

A. It did, I thought it very extraordinary to see a Non-Commissioned Officer out of his Barracks at such an hour and mentioned the circumstance the next morning to Lieut. Meldrum the Officer of his Company.

Q. Subsequently to this occurrence do you remember any circumstances in the conduct of the Prisoner to Cooke which became the subject of conversation when quartered at Colabah.

A. Yes.

Q. Will you state if you please to the Court what these circumstances were.

A. I heard it remarked that it was wondered at that Mr. McKenzie should have this man at his Bungalow after having been spoken to about it by the Colonel.

Lieutenant Lyster Withdraws.

Lieutenant Dalway, H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. Yes.

Q. State if you please to the Court what these circumstances were.

A. It was a public topic of conversation among us the Prisoner's intimacy with Private Cooke.

Q. Did these circumstances give rise to reports prejudicial to the Prisoner and if so, what were they.

A. Yes, reports respecting an intimacy of an indelicate nature subsisting between the Prisoner and Cooke.

Q. Can you state either from your own knowledge or recollection when and where this intimacy was first remarked and spoken of.

A. It was first remarked and spoken of on board the Ship *Englis* coming out from England.

Cross Examined by the Prisoner.

Q. Did you ever hear any Officer or Officers expressly say that an intimacy of an indelicate nature subsisted between me and Cooke.

A. I never certainly heard, any Officer say so expressly.

Q. Did you ever say so yourself?

A. I may have said so, but I cannot recall any particular conversation to my recollection.

Q. What were your reasons for forming such a conclusion?

A. The intimacy that subsisted between the Prisoner and Cooke.

Q. Did you ever at any time witness any instances of intimacy between me and Cooke, if so state them.

A. On board Ship I have seen, Cook when a Serjeant bring down your bed, which was an improper thing for a Serjeant to do, I can call to my recollection any other instances.

Q. Did you ever see or know of Cooke when Serjeant cut the hair of any Officers or rub in mercurial ointment for any Officers when sick?

A. On board Ship I recollect Cooke when Corporal cutting the hair of Officers but not when Serjeant. But as to mercurial ointment I did not know of any Officer on board rubbing it in.

Q. Did you ever hear Cooke called Mrs. McKenzie.

A. No.

Q. Did you ever witness any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. I never did, certainly. But I never was intimate enough with you to know your private life.

Lieutenant Dalway withdraws.

Lieutenant Meldrum H. M. 2d or Queen's Royal Regt. called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regt., which became the subject of conversation when quartered at Colabah.

A. I recollect hearing reports respecting Mr. McKenzie and Cooke.

Q. State to the Court if you please what these reports were.

A. The reports were that there was too great an intimacy between Mr. McKenzie and Cooke, as respected an Officer and a Soldier.

Q. Can you state the time and place this intimacy was first remarked and spoken of us improper the reports respecting this intimacy.

A. I first heard them at Colabah, and until Cooke's death.

Cross Examined by the Prisoner.

Q. What do you mean by too great an intimacy subsisting between me and Cooke.

A. The reports went so far as to say a Criminal intimacy.

Q. From whom did you first hear these reports.

A. I cannot recollect, but they were mentioned generally in the Regiment.

Q. Can you specify the name of any particular Officer who ever said that a Criminal intimacy subsisted between me and Cooke.

A. Yes, several, Mr. Carruthers, Mr. Keith, Captain Lawson, Mr. Dickson, and some others whose names I do not recollect.

Q. Did you ever hear these Officers mention their reasons for forming such a conclusion.

A. No, except from the interest which Mr. McKenzie appeared to take in this man Cooke.

Q. Did you ever mention these reports to me.

A. Never.

Q. Did you ever witness any instances of too great an intimacy between me and Cooke, if so, state them.

A. No, it never came under my observation.

Q. Did you ever hear Cooke called Mrs. McKenzie.

A. Never.

Q. In consequence of the reports you have

above deposed to did you relax in any manner from the intimacy that subsisted between us.

A. No, because I did not believe them.

Q. Did you ever witness any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. No, I never have.

Examined by the Court.

Q. Did the reports respecting the Prisoner and Cooke appear to you to be generally mentioned in a light or in a serious manner.

A. In a light manner.

Lieutenant Meldrum withdraws.

Captain Brough, H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation at Colabah.

A. Yes.

Q. Were the circumstances that were generally canvassed on these occasions of a nature to excite unfavorable sentiments respecting the Prisoner.

A. Yes.

Q. What were their import and tendency.

A. Too intimate an intercourse between the Prisoner and Private Cooke such as was not usual between an Officer and a Soldier.

Cross Examined by the Prisoner.

Q. When did you rejoin the Regiment, was it after Cooke's death.

A. I rejoined the Regiment on the 1st October 1825, previously to Cooke's death.

Examined by the Court.

Q. When you rejoined the Regiment was the Prisoner present or absent on duty.

A. He was absent on duty at Poonah.

Q. Were you on terms of intimacy with Lieutenant McKenzie since you rejoined the Regiment in India.

A. No, not on terms of intimacy.

Q. Were the remarks respecting the Prisoner and Cooke generally made in a light laughing manner or seriously.

A. Both.

Q. Did you ever mention these remarks to the Prisoner.

A. Never, Mr. McKenzie and I have done duty but a very few weeks together in the Regiment.

Q. On what day did Cooke die.

A. On the 6th of October last to the best of my recollection.

Captain Brough withdraws.

Lieutenant Keith, H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember of any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. Yes.

Q. Were the circumstances that in general canvassed in conversation among the Officers of a nature to give rise to reports unfavourable to the character of the Prisoner.

A. They were.

Q. What were their import and tendency.

A. An improper familiarity between the Prisoner and Private Cooke.

Q. Where there any other reports in circulation.

A. I do not recollect any.

Q. Can you state from your own knowledge or from recollection when and where this familiarity was first remarked and spoken of as improper.

A. Yes, on board Ship.

Cross Examined by the Prisoner.

Q. What do you mean by an improper familiarity.

A. It was improper as subsisting between an Officer and a Private Soldier.

Q. Did you ever at any time witness any instances of improper familiarity between me and Cooke, if so state them.

A. Never.

Q. Did you ever say in the presence of Lieut. Cooper that a Criminal intercourse existed between me and Cooke.

A. Never.

Q. Did you ever tell Lieutenant Dalway that a Criminal intercourse existed between me and Cooke.

A. Never.

Q. Did you ever say in presence of Lieutenant Meldrum that a Criminal intercourse existed between me and Cooke.

A. Never.

Q. Did you ever hear Cooke called Mrs. McKenzie.

A. I have.

Q. State the time and occasion.

A. I cannot exactly state the time, but it was in the presence to the best of my recollection of Capt. Lawson, Mr. Carruthers, & Mr. Dalway.

Q. Was Cooke at the time you heard him called Mrs. McKenzie a Serjeant or a Private.

A. A Private.

Q. Did you ever witness any things in my conduct derogatory to the character of an Officer and a Gentleman.

A. No.

Q. Have you ever expressed yourself, in such a manner as to give occasion to a report that a Criminal intimacy existed between me and Cooke.

A. Never.

Examined by the Court.

Q. Were you on terms of intimacy with the Prisoner between June and December 1825.

A. No.

Q. Were the reports respecting the improper familiarity between the Prisoner and Cooke usually mentioned in a laughing or in a serious manner.

A. In a serious manner.

Q. Did you ever mention to the prisoner that such reports existed.

A. No.

Lieutenant Keith withdraws.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

NINTH DAY.

THURSDAY 13TH JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday.

The Prisoner now addresses the Court as follows.

Mr. President and Gentleman.

It is with the greatest diffidence that I now venture to address you, but justice not only to myself but to friends who have kindly wished to afford me assistance in the very anxious situation in which I am placed emboldens me to bring the following circumstances under your serious consideration, Lieutenant Elderton who appeared in Court as my friend during the first six days of the sitting of this Court has been ordered to leave this place by the general Officer Commanding the Division without any cause being assigned and before his leave of absence was expired; and Lieutenant Eyre, whom the Prosecutor himself very correctly named my friend, has been placed in close arrest without any charge being furnished to him, with respect to the latter Officer the Court will no doubt remember that the prosecutor accused him of maintaining and undue communication with his witnesses, and that when the Court intimated that it was not competent for it to take any steps for preventing the alleged communication, the prosecutor then mentioned his intention of referring the subject to the general Officer Commanding the Division. That Lieut. Eyre's arrest has been the consequence of this reference may be an unjust conclusion, but it is one which will undoubtedly be formed by every person acquainted with these circumstances.

On these singular occurrences I am fortunately saved the necessity of making any comments by the following extract from a General Order dated 21st, October 1818, by the Marquess of Hastings when Commander in Chief in India in giving his opinion on the finding of a General Court Martial held for the trial of Lieutenant Mallene H. M. 67th, Regiment.

"A most becoming attention to the ends of justice has on this occasion been manifested by the Court in the following representation."

"The Court having performed the duty of pronouncing judgment on the Prisoner, Lieut. Mallene conceive it necessary, in justice to those who have been brought before them and the respect due to their own proceedings and to the support due to all judicial enquiry to submit to the most able and the Commander in Chief that it has come to their knowledge that notice has been taken beyond the Court of what was brought before them in the course of their proceedings and that the last Prisoner was called upon for an explanation of what he urged in his defence, the Court have now before them on the face of the present proceedings the same observation which led to the measure to which they allude, & they therefore think it their duty to submit to the most noble the Commander in Chief the injury which public justice must sustain if those who are the subject of judicial enquiry are amenable to the passions of individuals for what is brought before the Court in the course of the Prisoner's defence."

"The Commander in Chief makes the most confident appeal to that honor and public spirit of every Officer that should any personal call be addressed to him or any indirect pro-vocation be offered to him for the purpose of engaging him in a private quarrel relative to these trials he will immediately report the same to his excellency. The Governor General in Council would in such a case, be solicited to order the law Officers of the Honorable Company to prosecute the offender criminally for an outrage against the administration of justice."

In further explanation of this point Captain Hough observes. "It has been before stated that any injurious treatment to those who are immediately under the protection of the Court is a contempt now all witnesses summoned on the trial tho' not actually present in the Court, the Prisoner, and those in attendance or under the authority of the Court are persons entitled to its protection."

Under the description, therefore of persons in attendance the friends of the Prisoner may with great justice be included, whether he has made a special application to the Court that they might be permitted to be present during the trial or whether he may have omitted this form. But the depriving a Prisoner, under any pretence, of the assistance of friends is, I believe, totally unprecedented and I may be allowed to add is totally repugnant to every principle of equity & justice. According to the design institutions of English law every facility for his defence is afforded to a Prisoner; and it is a received maxim that it is better that ten guilty men should escape than one innocent man suffer. The remotest appearance, therefore, of influence or oppression is sedulously removed from all trials in England, and the slightest suspicion of either party having attempted to treat the jury is sufficient to suspend a trial. Can it, however, be said that the circumstances which I have now brought under your notice have been dictated by the same principles. Do they not, on the contrary, betray a desire that the Prisoner should be convicted, and that for this purpose it was necessary to render him as helpless and as unsupported as possible.

But it would not become me to pursue these remarks any further and I have merely hazarded them as suggestions for the Courts consideration. For I feel confident that the Court will not only vindicate its own dignity by affording

its protection to all persons who may attend it and by preserving the administration of justice free from all undue interference; but that to use the words, of the preceding quotation, "the passions of individuals" will have no influence over their opinions or final decision. Still aware as I am of the combination which has been formed against me by the Commanding Officer and Officers of my Regiment, which they have evinced in a most illiberal manner even in private society, I have considered it a duty due to myself and my friends to claim in this formal manner that protection and that facility of defence which every Court of Justice is bound to afford to a Prisoner.

The Court is now closed and after deliberation resolve that a copy of the preceding address be transmitted to His Excellency the Commander in Chief accompanied with the following letter.

To,
HIS EXCELLENCY LIEUTENANT GENERAL SIR THOMAS BRADFORD, &c. &c.
Commander in Chief &c. &c.

SIR,
I am requested by the Court Martial of which I am President to submit to your Excellency's consideration the accompanying copy of an address delivered into Court this forenoon by the Prisoner, and to solicit that an enquiry may be made into the circumstances there stated. For should they be found correct, the Court trusts that your Excellency will be pleased to give such orders as will prevent any interference with the proceedings of this Court or with any persons in attendance upon it, and most particularly to prevent the Prisoner from being deprived of any means or of any assistance which he may consider essential for his defence.

I have the honor to be Sir,

Your Excellency's most obedient humble Servant,

JOHN F. FITZGERALD, Col. and President.

Court Martial Room, }
Poonah, 13th, July 1826. }

The Court is now opened and the preceding address and the resolution thereupon read.

Captain Girdlestone, H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember any circumstances in the conduct of the Prisoner with respect to the late private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. I know that there were many conversations respecting the Prisoner's conduct with private Cooke but the circumstances that gave rise to these reports did not come under my own knowledge.

Q. Did the circumstances that were in general canvassed in these conversations go to affect the Prisoner's character.

A. Decidedly in a most delicate point.

Q. Will you state if you please to the Court what these circumstances were.

A. To the best of my recollection the general purport of these conversations was that both on board Ship and, also at Colabah there had been an unusual footing of intimacy between the late Serjeant Cooke and Lieut. McKenzie. Such as ought not to exist between an Officer and a Soldier in the ranks, and which was persisted in as it was at Colabah after hints given him by his Commanding Officer so as to give it a very Criminal appearance. This was the general tenor of the conversations which I heard.

Cross Examined by the Prisoner.

Q. Did you ever hear any other reasons given for the reports you have above deposed to than the alleged intimacy between me and Cooke being unusual between an Officer and a Soldier.

A. Yes, I have heard it remarked that it was an unusual intimacy between an Officer and a man.

Q. From whom did you first hear this remark.

A. I have heard it in the course of the conversations above deposed to but I cannot at this distant period recall to my memory the names of any particular Officers who said so.

Q. Did you mention these reports to me.

A. Never.

Q. Did you report them to the Commanding Officer of the Regiment.

A. Never.

Q. From your rank in the Regiment was it not your duty to have taken public notice of so horrid an accusation being brought against a brother Officer.

A. Had I believed the Criminal parts of these reports I should have considered it my duty to have done so, but as I did not believe them I did not.

Q. Did you ever witness any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. Never.

Examined by the Court.

Q. Did you ever observe any intercourse between the Prisoner and Private Cooke that could be deemed improper between an Officer and a Private Soldier between the months of June and December 1825, if so, state it.

A. I did not.

Captain Girdlestone withdraws.

Captain Head H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Q. Do you remember any circumstances in the conduct of the Prisoner with respect to the late private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. Yes.

Q. Did the circumstances that were in general canvassed in these conversations go to affect the Prisoner's character.

A. They affected the Prisoner's character both an Officer and as a Gentleman.

Q. Will you state if you please to the Court what these circumstances were.

A. Those that affected the Prisoner's character as a Gentleman were 1st, a falsehood to the Adjutant and associating with a man in the Regiment who was not his servant. As an Officer for having that man in his house after Tattoo and contrary to the Commanding Officer's order.

Cross Examined by the Prisoner.

Q. Have you any personal knowledge of the circumstances you have above deposed to.

A. None, whatever. I arrived at Colabah on the 1st October last about four or five days before this man Cooke died.

Q. Have you ever witnessed any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. On the contrary, I was very much prejudiced against Mr. McKenzie and his conduct afterwards gained on me greatly.

Examined by the Court.

Q. Did you ever acquaint the Prisoner with the reports that were in circulation respecting the Prisoner?

A. I was a perfect stranger to the Prisoner till I met him. I think, in December, and as he had many older friends in the Regiment I did not think myself bound to do so.

Q. Did you give credit to the reports above deposed to?

A. I had every reason to believe them implicitly.

Q. What were your reasons for believing them implicitly?

A. I had them from persons who were on the spot at the time, and who did not state them to me as reports.

Q. Will you be good enough to name these persons.

A. On my arrival at Colabah I was thrown into immediate contact with Captain Graham and Captain Waring the Captain of the Company, the man belonged to who mentioned them as facts and I have heard them substantiated by a great majority of the Officers of the Regiment.

Captain Head withdraws.
Lieutenant Harvey H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember any circumstances in the conduct of the Prisoner with respect to the late Private Cooke of the Regiment which became the subject of conversation when quartered at Colabah.

A. I understood in Colabah that Private Cooke after being reduced from Sergeant was employed by the Prisoner without leave from his Commanding Officer. And I also recollect Mr. King who lived in the same Bungalow mentioned to me one morning that Cook had been there drunk the night before inquiring for Mr. McKenzie.

Cross Examined by the Prisoner.

Q. Did you ever witness any thing in my conduct derogatory to the character of an Officer and a Gentleman.

A. No, nothing—quite the contrary.

Examined by the Court.

Q. Did you ever observe any undue intercourse between the Prisoner and Private Cooke such as is considered improper between an Officer and a Soldier between the months of June and December 1825.

A. No, never.

Q. You state that you remember circumstances in the conduct of the Prisoner with respect to the late Private Cooke which became the subject of conversation when quartered at Colabah, did you ever mention these circumstances to the Prisoner.

A. Not, that I recollect.

Lieut. Harvey withdraws.

The Prosecutor here closes the Prosecution on the 1st charge.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

TENTH DAY.

FRIDAY 14TH JULY 1826.

At General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday.

2d Charge. The Prosecutor now addresses the Court as follows.

Mr. President and Gentlemen of this Court Martial although it is not easy to foresee at present the length to which the evidence on the succeeding charges may extend, I am happy to say the evidence at least on the 2d charge, will not long occupy the time of the Court. It will I believe be confined to the evidence of Ensign and Adjutant Hollingsworth of His Majesty's XX. Regiment, who will prove that no report was made by the Prisoner, of his having confined Private Charles McHugh of that Regiment, for the crime of having been found out of his Barracks and in the Prisoner's quarters on the night of the 5th May last. This may at first sight appear to the Court to be an offence of a very trivial nature, but it is one nevertheless, to Guard against which His Royal Highness the Commander in Chief has thought proper to frame a specific and very positive Regulation. This Regulation will be found in Page 127 of the Code of General Regulations and orders for the better Government of the Army, a copy of which every Officer is strictly enjoined to have in his possession, and to make himself thoroughly acquainted with its contents.

To save the Court the labour of reference I shall beg leave to quote the order already alluded to.

Extract from General Regulations and orders for the Army dated Horse Guards.

1ST JANUARY 1822.

“Conduct of Soldiers.
“It is Duty of all Officers to take notice of any negligence or impropriety of conduct in Non-Commissioned Officers and Soldiers, whether on duty or off duty, although the person or persons so offending shall not belong to their particular Regiment, any neglect of duty they are immediately to report to the Officer Commanding the Guard on which it has occurred, and they are enjoined to confine and to report to the Commanding Officer of the Regiment to which the offenders belong, any Non-

commissioned Officers or Soldiers they may detect in disorderly practices or who may appear out of their quarters, conducting themselves in a manner unbefitting Soldiers.

It is almost superfluous to inform the Court that these Regulations are to the full as imperative upon all Officers of whatever ranks, as the enactments of the meeting act itself.

The utmost pains have been taken to impress upon the army, that no excuse whatever will be admitted for any breach of, or deviation from the injunctions it contains.

Its authority therefore cannot be disputed and a breach of it in any particular, must necessarily involve all the consequences of a breach of the articles of war.

J. WILLIAMS, Lieut. Col.

Comd. Queen's Royals.

Camp near Poonah.

14th July 1826.

Ensign Hollingsworth, Adjutant of H. M. 20th Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you recollect Private Charles McHugh of your Regiment having been confined on the night of the 5th May last.

A. I do.

Q. By whom was he confined and for what offence.

A. It was stated to me the following morning that a Sergeant of the Queen's Royal had brought him a Prisoner to the Guard house by direction of Mr. McKenzie. The offence was for entering Lieutenant McKenzie's Bungalow on the night of the 5th May with intent to rob it.

Q. Did the Prisoner make any report to your Commanding Officer or to yourself of the circumstances under which the man was found in his quarters.

A. To me he did not, and not to the Commanding Officer of the Regiment that I am aware of.

Cross Examined by the Prisoner.

Q. By whom was the offence against Private McHugh to which you have above deposed furnished.

A. It was stated to me that it had been furnished by a Sergeant of the Queen's Royals.

Q. Was I not in sick quarters at this time.

A. I was then aware of Lieutenant McKenzie being in sick quarters.

Q. Did you call on me on the morning of the 6th May last, and enquire respecting the circumstances which had led me to confine McHugh.

A. Not on the 6th of May, but I think on the morning of the 7th I did.

Re-examined by the Prosecutor.

Q. Did the Prisoner send for you on that occasion or did you then call on him for your own private satisfaction.

A. No, he did not, but I called upon him for my own satisfaction and that of the Commanding Officer's from a notice of duty.

Examined by the Court.

Q. What signature was attached to the crime which accompanied the Prisoner McHugh when sent to your quarter Guard.

A. I have no recollection of having seen a crime but through the medium of the Barrack-Guard report.

Ensign Hollingsworth withdraws.

The Prosecutor here closes the Prosecution on the 2d charge.

3rd Charge. The Prosecutor now addresses the Court as follows.

Mr. President and Members composing this Court Martial.

You have now arrived at the third of the series of charges exhibited against the Prisoner, which from its unavoidable connection with much of what relates to the first charge, acquires thereby a degree of importance, that might not otherwise belong to it.

Before I proceed to lay before the Court a summary of the evidence to be produced in support of this charge I conceive that it may be useful to detail a variety of circumstances, which occurred prior to the commencement of this Prosecution, some of which it will be seen compelled me to adopt that measure notwithstanding all my wishes and endeavours to avoid it.

Having had a severe attack of illness, and it having been recommended that I should try a change of air for the benefit of my health, I left Camp on the 3d of May, and did not return, until the morning of the 10th when I heard for the first time, the extraordinary circumstances set forth in the Charge.

My House being under repair I took up a temporary abode with Captain Head, and Graham, who, while seated at breakfast on the morning of the 10th May hinted with becoming delicacy and caution, the reports that had gone abroad during my absence. The latter Officer quoted the words made use of by Captain Lawson the Senior Captain present with the Regiment, who had declared that “if he had been in command of it he would have felt it to be his duty, to report the whole affair with all its circumstances to me, on my arrival.” To have remained neutral on this occasion, would have been Criminal to obtain further information therefore, I directed the Adjutant to call upon the Prisoner officially for an explanation of all that had occurred, an explanation was accordingly furnished in the course of the day, respecting which the Court will be enabled to form its own opinion, as it is intended to form part of the documentary evidence that will be submitted for its guidance and decision. To me, I must confess, this explanation did not appear satisfactory, and further information being indispensable, I made personal enquiries on the subject, from Captain Lawson as well as of Captain Brough, who through the illness of the former had been in the actual Command of the Regiment. From those Officers I learned many additional particulars, which altogether appeared so respectable with regard to the Prisoner that I called on him to attend me personally on the following morning, that I might, if possible, get to the bottom of this very mysterious affair. The accordingly came. I received him with the same courtesy he had ever been accustomed to receive him. Being seated, I entered afresh upon the subject, but could elicit nothing satisfactory. The Prisoner described the strange

circumstance of a Soldier being found concealed in his house, on the night of the 5th with a degree of levity and indifference, that put my patience to a very severe trial. I could not help observing that by not exerting himself as he ought in prosecuting so vile a culprit to conviction, he had betrayed a most lamentable disregard to the integrity of his character, but that I would afford him a chance of escaping from the odium to which his supineness had exposed him. I proposed sending for Dr. Campbell, the Prisoner's Medical attendant, for the purpose of ascertaining in his presence, what foundation there was for the plea of illness, alleged by the Prisoner as an excuse for his not attending a Court Martial, in the event of which, he ought to have felt so lively an interest. Dr. Campbell was accordingly summoned to attend, and the Court will learn from his own lips, the opinion he then delivered. Ensign and Adjutant Hollingsworth of H. M. 20th Regiment will corroborate his evidence, as to the perfect capability of the Prisoner to attend the Court Martial, had he been so inclined. This Witness, will also prove a requisition to have been sent to the Prisoner officially requesting his attendance; and will produce the lame and unsatisfactory note, in which he declines to comply with it.

The Court I hope will believe me when I state, that up to this period, it was my wish, if possible, to save the Prisoner from exposure and ruin, as nothing had as yet been established against the Prisoner. I recommended it to him to try, to effect, an exchange into some of the Regiments under orders for Europe, where, on his arrival, he might retire upon half pay possibly with some advantage to himself. The left me with a promise to consider my proposal and acquaint me with his determination the next day.

On the morning of the 12th I waited upon the President of your honorable Court, and requested his permission to see the original proceedings of the Court Martial. They were accordingly put into my hands, and a bare perusal of them, was sufficient to shew me in a stranger light than ever, the fatal impropriety of the Prisoner's conduct; and the disgraceful reports which had by this time, become diffused through all Ranks in the Regiment, appeared to be nothing more than the natural consequence that such conduct was calculated to produce. The day of the 12th on which the Prisoner was to have informed me of his final determination, was already far advanced I had been waiting with anxious impatience for some communication from him, until about 3 past 3 o'clock, when I sent for him. In the mean time, Dr. Campbell happening to come in, I requested him, as the only officer who visited the Prisoner, to go to him, and urge his immediate departure.—Dr. Campbell will himself confirm this statement and then the Court will judge, whether my treatment to the Prisoner was harsh and hostile; or whether it did not on the contrary bear the broad and unadorned character of moderation and indulgence. I am unable to state with certainty, whether Dr. Campbell saw the Prisoner or not on this occasion; but however that may be, it was not long before he made his appearance. I then considered myself bound to tell him plainly, that I could no longer sanction an exchange, as I could not consistently give him those Testimonials which the rules of the service required. I pressed the necessity of his departure, and represented his selling out or going on half pay, as the only practicable alternative that remained. He declined both; and on the same day addressed a letter to me requesting I would convene a meeting of the Officers, to take his case into consideration. To this measure I offered no objection, and the meeting accordingly took place on the 13th May, the day after I received the Prisoner's letter. It is my intention to bring forward as witnesses, every Officer who was present at that meeting, in order that the Court may judge, from their own evidence, whether any thing on my part, was either done or attempted, with a view to create a prejudice against the Prisoner, or to bias the opinion that was avowed by all ranks on that day. The notoriety of the affair that had brought them together, had fully prepared them for its discussion, after a prefatory address, I put the following question to every Officer in succession, commencing with the serious “under all the circumstances you know or have heard, “to you consider Lieut. McKenzie has acted “as an Officer of the Regiment should have “done or as you would have done under similar circumstances, and do you after “what has occurred, feel that ease and confidence in his Society, which is necessary “to exist amongst brother Officers.” Every man amongst them will tell you on his oath, that one feeling appeared to animate the whole body, and an unanimous answer in the negative decided the Prisoner's unfitness to continue any longer a member of the corps.

The whole of the day subsequent to the meeting (the 14th.) I waited impatiently for some communication from the Prisoner, explanatory of his views, or the course he meant to pursue, I directed that a letter might be addressed to him by Lieut. Keith, the acting Adjutant, to press for his decision; and his reply, which reached me on the same day, compelled me however reluctantly, to resort to that extremity, which it had been all along my anxious wish to avoid. It announced his intention to bring his case before the commander in Chief to whom, an appeal was in a

course of preparation; and would be forwarded to me for transmission, as soon as completed.

This documents, which shall also be laid before the Court, reached me on the 16th May, and was dispatched by me on the 18th, agreeably to the Prisoner's desire. I was not made acquainted with the sentiments of His Excellency until the first of June, when they were communicating to me by the Major General Commanding the Division, and on the same day, charges were framed and delivered to the Prisoner by the Adjutant, who at the same time placed him in arrest.

I beg the Court to receive and consider this statement, as given with the same sacred regard to truth as if it is now on my oath, and I am not without a hope, that I may yet be offered an opportunity, before the close of your proceedings of confirming it, either in whole or in part, under that most solemn obligation.

J. WILLIAMS, Lieut. Colonel

Commanding Queen's Royals Regiment.

Camp near Poonah,

14th July 1826.

Ensign and Adjutant Hollingsworth again called in to Court and examined on his former oath.

Examined by the Prosecutor.

Q. Was the offence against Private McHugh entered in the Barrack guard report to which you have above deposed altered, and if so, state the precise terms of the crime on which he was brought to trial.

A. It was, and the crime on which he was tried was, “For unsoldierlike conduct in being out of his Barracks after hours, and found secreted in Lieutenant McKenzie's bed on the night of the 5th of May.”

Q. Will you state the cause why the original Crime was deposed from.

A. The offence of which McHugh had been guilty was of such a nature as to render a Court Martial on the man unavoidably necessary as the offence was to an Officer of another corps, and it was necessary to try him for the offence of which he was actually guilty.

Q. Did you privies to the trial of Private Charles McHugh send a requisition or summons to the Prisoner to attend as Prosecutor or evidence on that occasion.

A. I wrote to Lieutenant McKenzie by order of the Commanding Officer of the Regiment officially stating that the Soldier who had been found secreted in his apartment and bed was to be tried by a Court Martial I think, on the following morning, and requesting him to attend to prosecute the man. This was the substance of the note.

Q. Is this the note which you wrote on that occasion.

A. Yes, it is.

Poonah, 6th May 1826.

Sir,

Colonel Fitz-Gerald has directed me to inform you that the place of the 20th Regiment found secreted himself in your apartment, and bed last night, will be tried by a Court Martial on Monday morning at 10 o'clock, and to request your attendance at that hour.

Lieut. McKenzie Yours Sir, most truly Queen's Royals &c. and very obediently.

H. HOLLINGSWORTH.

Ensign & Adj. H. M. 20th Regt.

Q. Did the Prisoner attend the trial of Private Charles McHugh in consequence of this requisition.

A. No, he did not.

Q. Have you any knowledge of the excuse alleged by the Prisoner for his non-attendance at the Court Martial, and was it communicated verbally or by writing.

A. I received this note from Lieutenant McKenzie as an excuse for his non-attendance on the 7th May.

Dear Sir,

I received your note this forenoon, and am sorry to be the cause of so much trouble. I am on the sick list and unable to go out but Sergeant Russel know just as much as I do and can give any information you may require.

To Mr. Hollingsworth I am

&c &c &c.

Dear Sir,

H. M. 20th Regiment very truly yours

Poonah 6th of May 1826. G. MCKENZIE

Q. Did you on the morning of the Court Martial take any and what Steps to satisfy yourself of the truth of the cause alleged by the Prisoner in that note for his non-attendance.

A. I waited on Lieut. McKenzie from a notice of duty, as I have before stated, and in consequence of receiving that note to learn the extent and truth of the man's crime from Lieutenant McKenzie, not with any views of satisfying myself with respect to Lieut. McKenzie's illness.

Q. From the Prisoner's general appearance on that occasion do you think he was able to attend the Court Martial, had he been so inclined.

A. Yes, I certainly think so.

Q. Did the non-attendance of the Prisoner at an occasion so particularly interesting to himself call forth any remark from you or from any person in your presence.

A. I have at this moment no recollection of any thing farther being said than that it was imperatively necessary that the officer who had confined the Prisoner should be present to prosecute him.

Q. Was any remark inserted in the margin of the Court Martial respecting the non-attendance of the Prisoner, if so produce the original proceeding of the trial.

(Continued in the Additional Supplement.)

Additional Supplement to the Bombay Gazette.

WEDNESDAY, 18TH OCTOBER 1826.

Continued from the Supplement.

A. Yes, there was and the document now given in contains the original proceedings of that trial (vide appendix A).

The marginal note referred to is read and recorded viz.

"Prosecution 1st Evidence" "Lieutenant McKenzie being from sickness unable to attend."

Q. Can you state to the Court what first suggested the necessity of making that remark.

A. The indispensable necessity for the Prosecutor's attendance or for a cause being shewn why he could not attend.

Cross Examined by the Prisoner.

Q. Do you know if the alteration of the original charge given in against Private Charles McHugh was ever communicated to me.

A. Not, farther, than is stated in the official note addressed by me to you.

Q. Was a copy of the altered charge furnished to me.

A. No, I did not think it necessary.

Q. By whom was the charge altered.

A. By me under the Authority and direction of the Commanding Officer.

Q. What was intended by the words, "in his (Lieut. McKenzie's) bed."

A. In Mr. McKenzie's bed, certainly not in bed with him.

Q. State the conversation that took place between you and me on the morning that you called on me respecting McHugh's business.

A. I found Lieut. McKenzie in his garden, and recollecting that he had said he was sick and seeing him uncovered I requested him to come in out of the sun. Mr. McKenzie went in very politely through a first room into the second, and drawing back a curtain discovered two other rooms and requested me to sit down on a Couch, on which he stated he went to sleep the previous night, that he was awake in the night by the wind blowing over this Couch and that looking towards the further room he was surprised to see two men walking about under a small globe lamp that was hanging there. Feeling himself not a match for two men who might be of the worst description and I think he added having no arms that he went shily through a door that was near him and went to the nearest Guard room from which he brought a Sergeant and a man or two, I observed to Lieut. McKenzie that it was a wonder they did not come into the apartment where he was lying. He stated that he was concealed being in the dark there being no light except in the distant room where the men were moving. He showed me then the small window in that room through which they must have come, that their intention could not have been to rob him as, had that been the case, they had it in their power to do him a great injury, but his Beauureau or small mahogany Press in which there was a number of valuable articles had remained untouched. That whilst bringing the Sergeant and men from the Guard one of the two men escaped through the window and that the other McHugh was seated in the bed with the Curtains wrapt about him, that on the Sergeant attempting to rouse him out of the bed he pretended to be in a very profound sleep and not to know where he was, and rolled over once or twice and would not quit the bed pretending that it was his own bed, that he ordered the Sergeant to take him to the Quarter Guard of the 20th.

Q. Did you satisfy yourself on that occasion with respect to the relative Situation of the bedstead in which McHugh was found, and the Couch on which I said I had been sleeping the previous night.

A. Yes, you pointed them out to me.

Q. To the best of your recollection is this a correct plan of the relative situation of the rooms in my Bungalow (vide appendix B).

A. It is, but I think there was a small Camp-cot opposite to the bath, and I am not certain whether there was a back-door to the room in which the men were said to have been.

Q. Were you present at the Court Martial where which McHugh was tried.

A. Yes, I was.

Q. Did it then appear to you that the witness intended to say that McHugh was found in bed in which I was sleeping, or in an empty bed.

A. The evidence of Sergeant Russell was strictly corroborative of what Lieut. McKenzie related to me, as I have now stated as far as Sergeant Russell had seen.

Examined by the Court.

Q. What signature was annexed to this altered Crime as the person preferring it.

A. The Signature to the Crime on which McHugh was tried was that of Colonel Fitz-Gerald, but not as the person preferring it the Crime being the substance of what Lieut. McKenzie and Sergeant Russell had stated.

Q. From your official knowledge of the list of evidence against Private McHugh did you conceive, after what Lieut. McKenzie related to you, that his presence at McHugh's Court Martial was imperatively necessary.

A. I certainly did.

Q. By the Judge Advocate.—Did Lieut. McKenzie frame the charge on which Private McHugh was tried, or was he consulted respecting the framing of it.

A. No, it was considered unnecessary to consult Mr. McKenzie after I had heard what he stated and reported it to the Commanding Officer and after it had been corroborated by what Sergeant Russell said.

Q. By the Judge Advocate.—The Crime is thus entered on the Proceedings of the Regimental Court Martial, "Private Charles McHugh of Captain Bolton's Company confined by Lieut. McKenzie of the Queen's Royal Regiment for unsoldierlike conduct in being out of his Barrack's after hours, and found secreted in his (Lieut. McKenzie's) bed on the night of the 5th instant." Was this the offence for which Lieut. McKenzie placed Private McHugh in confinement.

A. No.

Ensign Hollinsworth Withdraws.

Assistant Surgeon Campbell, H. M. 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prosecutor.

Q. Did you attend the Prisoner in your medical capacity on the 8th May last, and for some few days previously.

A. I did.

Q. Did you find the prisoner on the date last mentioned (the 8th) laboring under any illness that would confine him to his bed or his house.

A. He was not confined to his bed at that time but was able to walk about his house.

Q. Could he with safety to his health have obeyed the requisition to attend a Court Martial that was held in the Lines of the 20th Regiment on that day.

A. He might have gone in a Palankeen or Buggy, but I dare say he would have suffered inconvenience by walking.

Q. Did the Prisoner ever consult you or take your advice regarding the safety of his attending the trial of Private Charles McHugh.

A. No.

Q. Do you know of any unfavorable reports that became spread amongst the Officers of the Regiment in consequence of the Prisoner not having attended this Court Martial.

A. I did hear several unfavorable reports.

Q. Please to state the nature of these reports.

A. The reports principally referred to an improper intimacy between the Prisoner and Private Soldiers particularly one whose name, I think, was of Cooke.

Q. Did the reports that formerly existed with regard to Private Cooke appear to be connected or associated with the reports that grew out of this new occurrence in the 20th Regiment.

A. I have never heard this new affair spoken of that reference was not made to former circumstances.

Cross Examined by the Prisoner.

Q. Was I not in the sick List on the 8th of May last.

A. You were.

Q. If you found an Officer out of his quarters when in the sick list would you not consider it your duty to remonstrate with him, or report him to the Commanding Officer.

A. Under such circumstances I should think it necessary to remind the Officer of the Regimental order, which is that Officers shall not leave their quarters when sick unless advised to do so for the sake of their health.

Q. Repeat to the Court in as exact terms as possible the message you delivered to me from Lieutenant Colonel Williams on the 13th of May last prior to the Mess-Meeting.

A. Lieutenant Colonel Williams mentioned to me that Lieut. McKenzie had not attended a Court Martial in the 20th Regiment in which he was particularly concerned although he had been requested to do so by Colonel Fitz-Gerald, that he (Lieut. Col. Williams) had called a meeting of the Mess that he had considered Mr. McKenzie's conduct in correct in many instances, that reports were in circulation of a disgraceful nature and reported to him by several Officers of the corps which obliged him to interfere. My reply was that if Mr. McKenzie was aware of the reports in circulation he would probably leave the Regiment and exchange, and at the same time I offered to go and mention to him what they were, I did so, and Lieut. McKenzie felt so conscious of his innocence that I could not advise him to do otherwise for himself.

At 10 o'clock P. M. the Court is now Adjourned until to-morrow forenoon at 11 o'clock.

SEVENTH DAY,

SATURDAY 15TH JULY 1826.

At a General Court Martial then holden at Poona pursuant to Adjournment.

Present the same Members as yesterday.

The President lays before the Court the following letter from his excellency the Commander in Chief in reply to the Courts letter of the 13th instant.

Poona, July 14th 1826.

Sir,

I have the honor to acknowledge the receipt of your letter of this days date inclosing an address to the Court Martial from Lieutenant McKenzie.

All Prisoners under trial should in my opinion, be allowed every advantage and facility of communicating with their friends, which a

due administration of Justice and the custom of the service authorize.

The Course I believe usually pursued by Courts Martial, and acknowledged to be the correct one, is on the commencement of trial for the Prisoner to be asked whether he has any friend or professional person whose assistance he wishes if any one is named, so long as that person's conduct is not opposed to the dignity of the Court, and due propriety he is considered under their protection. It is very unusual, I believe, for more than one friend to assist a Prisoner in Court, and I cannot help thinking the interests of every Prisoner are more advanced by the assistance of one judicious adviser than many who may not be equally so, and there are other reasons which operate with me as an objection to many which I am unwilling to mention until the Court Martial have given their verdict. There is however no reason that I am aware of, if a Prisoner chooses to risk the advising with many, why he should not be allowed the aid of others out of Court so long as such aid is confined within its proper limits.

Lieutenant Eyre having made the atonement required for conduct unconnected with the trial of Lieutenant McKenzie, which Sir Lionel Smith most properly disapproved of, he is at liberty to give his assistance to Lieut. McKenzie if the Court Martial sanction it, and when Lieut. McKenzie makes application, through the proper channel, to the general Officer Commanding the Division for Lieut. Elderton being allowed leave of absence in order that he may consult him as a friend. There is no doubt it will be complied with.

To, I have the honor to be Col. Fitz-Gerald, Sir

C. B. Your most obed. humble Servant.

T. BRADFORD,

Lieut. General.

Read over the Proceedings of yesterday. The Cross Examination of Assistant Surgeon Campbell continued.

Q. Did you not tell me, "that you came by desire of Lieut. Col. Williams to inform me that the reports in circulation to my prejudice were that the man found in my Bungalow, if not both individuals seen there had come by appointment for the most abominable purpose, and that my not appearing to prosecute Private McHugh was sufficiently explained by that circumstance."

A. Yes, I did, with exception of the last sentence as if I mentioned the words contained in it I did so as giving my own opinion of the inference that might be drawn, and not as coming from Col. Williams.

Q. Did you not further say that the Lieut. Col. strongly advised my immediate departure, and that he would not only render me all the assistance in his power for that purpose, but if I would consent to go on half pay he would render me every facility in his power, but that if this proposal were rejected he would convene a meeting of the Officers at half past five, to consider, what further proceedings it would be proper to adopt.

A. Yes.

Q. Do you mean to say that Col. Williams never said to you that my not appearing to prosecute McHugh was sufficiently explained by that circumstance.

A. I do not recollect that Col. Williams ever made use of these words; but Colonel Williams said that the opinion which he had formed of, of Mr. McKenzie was increased by that circumstance.

Q. Was the meeting of Officers above mentioned convened, and on what date.

A. It was, and I think on the 13th May last.

Q. Were you present at that meeting.

A. I was.

Q. State the Proceedings that took place especially as regards the conduct of Lieut. Col. Williams there.

A. Lieut. Col. Williams began by stating the incorrectness of Mr. McKenzie's conduct in not attending the Court-Martial held for the trial of Private McHugh in the 20th Regt., which he considered it incumbent on him to have done. All that passed on that occasion I cannot recollect, but I recollect that Lieut. Col. Williams afterwards spoke of Mr. McKenzie's conduct as having been incorrect on several occasions but more particularly in being too intimate with a Soldier of the Regiment which intimacy was evident from this man having left all his effects to Mr. McKenzie, Lieut. Col. Williams asked Mr. McKenzie if he wished him to take the opinions of the Officers, and they were taken commencing with the Senior Officer present every individual, except one Officer who was ignorant of the reports, and declined giving an opinion said that they could not associate with Lieutenant McKenzie under these circumstances until they were cleared up. I also declined giving an opinion for the same cause.

Q. Did any discussion take place at this meeting respecting the circumstances stated by Lieut. Col. Williams.

A. There was no particular discussion, several questions were put to Lieut. McKenzie to which he replied that he was not

conscious of having ever behaved unbecomingly an Officer and a Gentleman, and expressed his surprise that notice had not been taken sooner if his conduct had been so bad.

Q. Was the particular improper conduct or culpability of Lieut. McKenzie distinctly and in express terms pointed out by Lieut. Col. Williams at this meeting.

A. With regard to the man above mentioned the intimacy with him was distinctly pointed out and that Mr. McKenzie had been the cause of his being reduced and even after that he had continued to support this man and to keep him in some part of his Bungalow. It was also stated that Lieutenant McKenzie had acted incorrectly in taking a man from another Company as his servant since his arrival in Poona.

Q. Did Lieutenant Colonel Williams explain in what respect this intimacy was improper.

A. I do not recollect that he did.

Q. Did Lieutenant Colonel Williams explain in what respect Lieutenant McKenzie had acted improperly in not attending to prosecute Private McHugh.

A. Colonel Williams said that he thought it was the duty of an Officer to have attended and not to have left the Prosecution to a Non-commissioned Officer, and further stated that he had neglected his duty in not reporting the occurrence which had taken place to him as his Commanding Officer.

Q. Were there any other reasons assigned for excluding Lieutenant McKenzie from the society of his brother Officers.

A. Non, beside those which I have above mentioned. All their objections to associating with Mr. McKenzie appeared to me to be founded on the intimacy which had taken place between him and the individual above-mentioned.

Q. Was any proof either given or asked for at this meeting that the intimacy you mention had been unbecoming an Officer and a Gentleman.

A. I do not recollect that there was.

Q. Was it mentioned at the meeting that reports prejudicial to my character had originated and been circulated in consequence of my not having prosecuted McHugh.

A. It was.

Q. By whom was it mentioned.

A. I think by Colonel Williams that such reports were in circulation.

Q. Did you observe me at this meeting hand Lieutenant Colonel Williams a paper and request him to read it.

A. I do recollect that you handed a paper to Lieutenant Colonel Williams.

Q. Can you state whether that paper was read or what Lieutenant Colonel Williams did with it.

A. I cannot.

Q. Did you hear me ask Lieutenant Colonel Williams to give up the authors of the reports he said were in circulation to my prejudice.

A. I did.

Q. What reply did Lieutenant Col. Williams give.

A. His particular reply to that question I do not recollect but I recollect Lieutenant Colonel Williams saying that the reports had been brought to him by many of the Officers of the corps.

Q. Was there any attempt made to shew whence these reports originated, so that the Officers might have judged of the credibility due to them.

A. I am not aware of any.

Q. Did you hear me request Lieutenant Colonel Williams to call upon every Officer present to state whether he had ever known any thing in my conduct that could affect my character and honor.

A. I do not recollect your having done so. But as I have stated you requested that the opinion of the Officers might be taken, and you also said that you felt perfectly conscious no man could prove that you had ever acted unlike an Officer and a Gentleman.

Q. Did you ever witness any thing in my conduct derogatory to the character of an officer and a Gentleman.

A. Never.

Re-Examined by the Prosecutor.

Q. Did any thing that was said or done by Lieutenant Colonel Williams appear to you to be intended to have an undue influence on the opinions of the Officers present on that occasion.

A. Certainly not.

Q. Did any thing Lieut. Colonel Williams may have said to you individually prior to the meeting appear to you as intended to prejudice your mind, or to give an unfavorable bias to your opinion respecting the Prisoner.

A. No.

Examined by the Court.

Q. Did it appear from any thing which took place at that meeting that any one of his numerous brother Officers had prior to that day brought to Lieut. McKenzie's notice the disgraceful and degrading reports which were alleged to be in circulation respecting him?

A. It did not appear to me that any one had done so, with exception of what I myself mentioned to him prior to the meeting as above stated.

Q. By the Judge Advocate. Was it said at

this meeting that disgraceful and degrading reports were in circulation respecting the Prisoner.

A. The reports were said to be of an extraordinary nature but I do not recollect that the words disgraceful and degrading were used.

A. I am not positive.

A. I cannot. Q. Was this part of the reports in circulation previous to the trial of McHugh? A. I have already stated it was on the 6th or 7th and I believe previously to the trial of McHugh.

Q. Were you acquainted with the manner in which the Crime against McHugh on which he was tried was worded on the 6th or 7th May last?

A. No, I was not. Q. Will you positively say you were not the first person who mentioned this part of the reports?

A. I will positively swear that I was not the first person.

Q. What do you mean by his old work, as alluding to the reports at Colabah.

A. That a similar intercourse had taken place with the man that was found in your Bungalow as was reported to have taken place between you and Cooke.

Q. In what do you mean to say that the similarity was said to consist.

A. That a criminal intercourse had taken place between them as I seated on a former occasion.

Q. Was it the opinion of most of the Officers of the Regt. and a general topic of conversation on the 6th or 7th May, that a Criminal intercourse had taken place between me, and the man found in my Bungalow.

A. Yes, and subsequently particularly as it had been stated by an Officer of another Regt. that the man had gone to Mr. McKenzie's Bungalow by appointment.

Q. Name the Officers.

A. Capt. Stanley of H. M. 20th Regt.

Q. Did you ever hear Capt. Stanley say so.

A. No.

Q. From whom did you hear that Capt. Stanley had said so.

A. I have heard several mention it, Captain Girdlestone of the Queen's particularly.

Q. Did you convey the report of McHugh's affair to Lieutenant Colonel Williams, and was your own opinion or the opinion of others as to a Criminal intercourse between me and McHugh a part of that report.

A. I did not.

Q. Can you say of your own knowledge that this part of the reports had become a subject of animadversion throughout the cantonments on the 6th or 7th May.

A. No, I cannot. I do not mean it to be understood that this report was throughout the cantonments on the 6th or 7th May, but in the Regiment only.

Q. Did you ever see a letter addressed by Captain Stanley to Lieut. Colonel Williams respecting what you state he said about the man coming to my Bungalow by appointment.

A. No, I did not.

Q. At the meeting of Officers held on the 13th May, what reasons did Lieut. Colonel Williams assign for taking the opinions of the Officers present with respect to whether I ought to be any longer associated with or not.

A. I do not recollect that Lieut. Col. Williams assigned any particular reasons, it was at the Prisoner's request that the opinions of the Officers were taken individually, on that day I was very unwell and did not pay as much attention to what took place as I should otherwise have done.

Q. What were the reasons on which the resolution excluding me from the society of my brother Officers was founded.

A. It was inconsequence of the reports that had been in circulation to the prejudice of the Prisoner's character since the Regiment left England, and particularly for not clearing himself from the circumstance of a man being found in his bed.

Q. Were the particular circumstances mentioned from which the reports were supposed to originate.

A. I do not recollect.

Q. Do you recollect whether any discussion whatever took place at the meeting previous to voting my expulsion.

A. No, there was no discussion amongst the Officers on the subject, farther than the animadversions of Colonel Williams.

Q. Was it not known at the time the meeting took place to yourself and the Officers present that McHugh had been apprehended by some men that I went myself and brought from a Guard.

A. Yes, it was known to me, I cannot answer for any others.

Q. Was a single instance mentioned in express terms at this meeting of conduct on my part unbecoming an Officer and a Gentleman.

A. Yes.

Q. Mention the circumstances.

A. That the Prisoner had told a lie.

Q. By whom was this mentioned and were the particulars stated.

A. By Colonel Williams, that he had been informed by the Adjutant of the Regiment that the Prisoner had told a lie.

Q. Did Lieut. Col. Williams not mention on what occasion or did none of the Officers present request information on this point.

A. No.

Q. Did you concur in the resolution excluding me from the society of my brother Officers.

A. I did.

Q. As you have stated in your former evidence that you did not credit the reports in circulation

at Colabah and that you never witnessed any thing in my conduct derogatory to the character of an Officer and a Gentleman what induced you to concur in this resolution.

A. From the circumstance of your clearing yourself from the reports arising from the circumstance of a man being found in your bed.

Q. What do you mean by being found in my bed.

A. I must refer to the wording of the Crime and the Proceedings of the Court Martial by which McHugh was tried.

It being now 4 o'clock P. M. the Court is adjourned until Monday next at 11 o'clock of the forenoon.

TWELFTH DAY.

Monday 17th July 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as on Saturday last. Read over the Proceedings of Saturday last.

The cross examination of Lieut. and Adjutant Littlejohn continued.

Q. At the time that you gave your vote at the meeting of Officers held on the 13th May did you believe that McHugh had been actually found in the same bed in which I had been sleeping.

A. No.

Q. Have you used your endeavors to obtain evidence in support of the charges preferred against me by Lieutenant Colonel Williams.

A. In my official capacity as assistant to my Commanding Officer I did.

Q. During the enquires that you have made in consequence have you heard the slightest surmise amongst the men of the Regiment that an improper intimacy ever existed between me and any man in it, if so state the particulars.

A. Yes, Mr. McKenzie when sitting by the side of Cooke laid his hand on Cooke's expressed his surprise the next day of what he could mean by it, he was answered by the individual whom he addressed that he had been in the Guard and seen such work before. It was also stated by other two Soldiers that they were of opinion that a Criminal connexion had taken place between Lieut. McKenzie and Private Cooke.

Q. Did you hear the name of any other man besides Cooke mentioned.

A. No.

Q. From whom did you receive the information you have stated in the first part of your preceding answer.

A. Private Charles Harrower.

Q. Name the two Soldiers who mentioned the opinion stated in the last part of your preceding answer.

Q. Privates Smith and Lintott.

A. Is this the latter which you addressed to me requesting an explanation of the occurrence that had taken place in my Bungalow on the night of the 5th May.

A. It is.

Re-Examined by the Prosecutor.

Q. You have mentioned a falsehood having been told you by the Prisoner when did you report this circumstance to Lieut. Col. Williams.

A. The day of the meeting of Officers I think the 13th May.

Q. Did any thing that was said or done by Lieutenant Colonel Williams at that meeting appear to you to be intended to have an undue influence on the opinions of the Officers present on that occasion.

A. Certainly not.

Q. Did any thing Lieut. Col. Williams may have said to you individually prior to that meeting appear as if intended to prejudice your mind or give an unfavorable bias to your opinion respecting the Prisoner.

A. No, I had an opinion of my own.

Examined by the Court.

Q. Did you at any time previous to the 13th of May last, acquaint the Prisoner with the reports in circulation against him.

A. No.

Q. On what day did Captain Stanley make the observation stated in your evidence.

A. I do not know. The observation was not made to me by Captain Stanley.

Lieut. and Adjutant Littlejohn withdraws.

The Judge Advocate now addresses the Court as follows.

Mr. President.

I consider it my duty to request the attention of the Court to the wording of the 3d charge now under investigation, for every member must be aware that in Courts of Law when the Council for the prosecution produces either inapplicable or insufficient evidence the Judge stops him and enquires if he has any better evidence to adduce. If not the Judge immediately informs the Jury that as no proof has been adduced in support of the charge, the Prisoner must be acquitted.

The manner in which military charges are framed and in which military trials are conducted will not admit of this practice being adopted to its utmost extent. But, when a Prosecutor proposes to adduce evidence which does not apply to the charge, it becomes the duty of a Court Martial to reject such evidence, in order that its proceedings may not be extended to an inconvenient and unnecessary length and the attention of the members diverted by irrelevant matter from the due consideration of the real merits of the case.

The culpability however, imputed to the Prisoner in the charge depends principally on the circumstance stated in the Crime preferred against Private Charles McHugh, viz. that he had been found secreted in Lieut. McKenzie's Bungalow at night. The Court will not doubt that it was yet unexplained by the Prosecutor, whatever conclusions may have been drawn from it, is clear that they cannot apply to the Prisoner, because Ensign and Adjutant Hollinsworth has distinctly deposed that the original Crime given in against McHugh was for entering Lieut. McKenzie's Bungalow with intent to rob it on the night of the 5th May and that the Crime on which this man was tried by a Regimental Court Martial was "for unsoldier like conduct in being out of his Barracks after hours, and found secreted in Lieutenant McKenzie's bed on the night of the 5th May." But Ensign Hollinsworth further deposes that Lieut. McKenzie neither framed this last Crime, nor was he consulted with respect to the framing of it, nor was he furnished with a copy of it. It still remains therefore, for the Prosecutor to prove that Lieut. McKenzie knew that a different Crime from that which was originally given in had been preferred against McHugh or otherwise any inferences that may have been formed from his not attending to

prosecute McHugh and from his not having offered any explanation of the circumstance stated in this new Crime cannot apply to the Prisoner.

It is not however, clear from the wording of this charge whether the Prosecutor intends to allege that McHugh being found in an improper situation in the Prisoner's Bungalow, or merely that the manner in which his apprehension is stated in the crime on which he was tried gave rise to the reports alleged. If the former it is obvious that no evidence has yet been adduced in support of the allegation & if the latter it is equally obvious that the Prosecutor is not answerable for the consequences resulting from the wording of a Crime which he neither framed nor ever saw.

But it is not to either of these points that the evidence of all the Officers of the Queen's Royals is now offered by the prosecutor in support of these charges, but to prove that these Officers were acquainted with the reports therein alluded to and that they adopted certain measures in consequence. The existence, however, of these reports is not the principal point in question, but whether any conduct on the part of the Prisoner gave rise to them, or whether, when he became acquainted with them, he did not take any steps to vindicate his character from such injurious aspersions. It is to these points I conceive, the evidence of the Prosecutor ought to be directed and if the Officers of the Queen's Royals cannot depose to them it seems evident that their examination can have no other effect than to protract uselessly these proceedings, and to augment the record with much irrelevant matter which cannot be taken in to consideration by the Court when it comes to deliberate on its final decision.

The Court having taken the preceding remarks into their consideration are of opinion that the Prosecutor shall be restricted in giving further evidence in support of the 3d charge to the following points.

1st.—To proving the Prisoner's knowledge of the crime on which Private Charles McHugh was tried by a Regimental Court Martial.

2d.—To proving the Prisoner's knowledge of the reports in circulation to his prejudice.

3d.—To proving that the Prisoner on becoming acquainted with these reports, did not take any steps to vindicate his character from them.

The Court is now opened and the preceding remarks and opinion read.

The Prosecutor in consequence of the preceding decision now requests that he may be allowed until to-morrow in order to prepare himself for conducting the prosecution in the manner pointed out by the Court and the Court is accordingly adjourned until to-morrow forenoon at 11 o'clock.

THIRTEENTH DAY.

Tuesday 18th July 1826.

At a General Court Martial then holden a Poonah pursuant to adjournment.

Present the same members as yesterday. Read over the proceedings of yesterday.

The Prosecutor now addresses the Court as follows, Mr. President and members of the Court Martial.

When the Court was cleared yesterday, to deliberate on the objections taken by the Judge Advocate General to the relevancy of the evidence adduced on the 3d charge, I had hopes that the Court before it came to any decision on the question, would have afforded me an opportunity to make some kind of a reply to objections which I had so little reason to expect. I do not mean to go all the length of saying, I should have been able to produce a decision, the contrary of that which has taken place, I cannot pretend to cope in argument with the learned Judge Advocate who has had the experience of I believe, more than five and twenty years as a Military Lawyer. But I may venture to say that had I been indulged with the personal or with a copy of the elaborate document that produced the decision against which I now appeal I might have succeeded in weakening the force of the objections so far at least as to have been allowed to follow a course of proceeding less confined and embarrassing than that within which the Court has thought proper to restrict the evidence I may still have to bring forward in support of the 3d charge.

Under such a persuasion, I should be wanting in duty to myself as prosecutor if I did not solicit the Court with all deference to its Judgment, to consider the expediency of revising a decision, which imposes a most embarrassing restraint upon my future proceedings, and operates so as greatly to narrow the evidence I have still to adduce on the charge at present before the Court.

The Court I trust will feel disposed to receive with very liberal allowance, any attempt of mine to follow from mere recollection, a train of argument, framed with all the aid of legal talent and acuteness, with the additional advantage of leisure and deliberation afforded by the adjournment of the Court on Saturday last. I can recollect that considerable stress is laid on the practice of the Judges in the ordinary Courts of Justice in cases where the evidence is found to be leviant or defective. An equal degree of leniency appears to be laid on the circumstance of Private McHugh having been tried for a Crime, was worded differently from that given in the original Crime. But in what way, I beg to ask, does this objection apply to the charge to see that it does not apply to it no more I conceive is necessary than barely to read the charge itself. It is "for" having neglected to attend the requisition of the Commanding Officer of His M. 20th Regiment to attend as prosecutor or as an evidence, on the trial of Private Charles McHugh before a Regimental Court Martial on the following "Charges." The Crime for which McHugh was tried is the 3d Charge, in the very words of the original proceedings immediately after this follows the 2d Count of the charge at present before the Court which runs thus "and in having neglected to take any measures to explain the extraordinary circumstance of Private McHugh being found secreted in his Lieutenant McKenzie's bed, thereby exposing his own character to the most disgraceful reports and highly discreditable to His Majesty's Service."

Now of what importance can it possibly be to the Justice of the case whether the Crime originally given in by the Prisoner (or rather by Sergeant Russell) was altered or not or whether the

Camp near Poonah, May 10th 1826.

Sir,

I generally sleep in the room next the road but as there are Curtains to the bed, I on account of the heat, had my bed made on a Couch, in an apartment in the other end of the Bungalow, on the night of the 5th I had been a sleep some time when I awoke I found the window which looks into the road open, and on raising my self in bed I perceived 2 individuals in the room, having neither Sword, nor Pistols near me I got up with as little noise as possible and went over to the Guard from which I procured 2 or 3 men accompanied by Sergeant Russell, on entering the room one individual had made his escape, the other was concealed within the Curtains of the bed. He was taken to the Guard house and in going there I believe tried to make his escape. There was a pair of Shoes found in the room which I fancy belonged to the other individual and. They were dressed in Grey Trowsers, whether they had Jackons on or not, I do not know, nothing as far as I know, was taken.

I have the honor to be

Sir

Your Obedient Servant

G. MCKENZIE, Lieut.

Queen's Royals.

To

Lieutenant Littlejohn,

Queen's Royals.

Cross Examined by the Prisoner.

Q. From whom did you first hear the reports you have above deposed to.

A. I do not recollect who I first heard them from as it was a general topic of conversation among most of the Officers of the Regiment.

Q. On what day did you first hear them.

A. I rather think on the 6th or 7th of May, I heard of these reports.

Q. What part of the reports.

A. That part which alluded to the reports at Colabah.

Q. The occurrence took place late at night on the 5th May, how could any reports occasioned by it have become a topic of general conversation in the Regiment on the 6th or 7th.

A. I have already stated that, that part of the reports which alluded to the reports at Colabah took place on the 6th or 7th. It is impossible for me to explain how reports circulated in so short a time.

Q. Are you perfectly positive that you did not first hear this part of the reports from one

or more individuals before it became a topic of general conversation.

A. I am not positive.

Q. Can you mention the name of any individual from whom you first heard this part of the reports.

A. I cannot.

Q. Was this part of the reports in circulation previous to the trial of McHugh.

A. I have already stated it was on the 6th or 7th and I believe previously to the trial of McHugh.

Prisoner had notice of the alteration or not. The charge I humbly conceive, will be fully proved if in the place it can be established, that the Prisoner did know, that the man found in his bed was to be tried, and that the Prisoner from the description given of the requisition he received to attend the Court Martial could not but know the precise Crime for which the man was to be tried, and lastly the Prisoner did not in pursuance of the requisition attend either as Prosecutor or witness and was well able to do.

This was the order of evidence I meant to have pursued and which so far as may be practicable I still mean to pursue, following it up by evidence to show that the Prisoner's neglecting to take measures to explain the extraordinary circumstance (and extraordinary it confessedly was) of the man found in his bed, he thereby exposed his own character to "the most disgraceful reports."

Under the words of this Charge I submit it to the Judgment of the Court that it cannot be incumbent on one to prove the Prisoner actually knew of scandalous reports being in circulation. It is sufficient for my purpose if I can prove the Prisoner to have neglected every thing in the shape of explanation regarding an occurrence which, common sense would have pointed out to him as a subject the most likely that could well be imagined to call forth an endless variety of opinions and reports.

And here I beg to disclaim all wish or intention to prove a Criminal intercourse, all I am solicitous to establish is not that the Prisoner was aware of the existence of scandalous reports, but that he himself rendered his character liable to the stigma of such reports by evincing nothing like a serious wish to bring down adequate punishment on the head of one of the offenders, and making no effort to discover the other although for that purpose, he had in his possession an infallible clue in the shoes of the fugitive left behind him in his flight.

I want to do nothing more than to show the Court that the Prisoner's unaccountable procedure all through the piece was such as must of necessity give a handle for those foul and scandalous reports, which true or false subsequently fastened on his Character, I cannot allow myself to close this address without deprecating the consequence of a too frequent introduction of analogies between the practice of established Courts of Judicature and that of Courts Martial, earnestly do I hope that the Members of Courts Martial may never forget that they are mere Soldiers and not Lawyers and that they are more a Court of honor and equity than a Court of Law, acting in their Judicial capacity according to the broad and sound principles of a Court so constituted and letting in light upon their subject, from all sides they can scarcely ever fail to do substantial Justice. I presume not to deny that an occasional recurrence to legal principles to precedent and even a temperate application of the received rules of evidence are in many cases essential to the due discharge of those grave and important duties for which Courts Martial are assembled. But they surrender a valuable part of their prerogative and I may add of their dignity, if they allow the Dicta of Law Books to fetter their discretion and operate with despotic control on their deliberations so as to become at length elevated into a fixed rule of their proceedings.

As a Soldier myself and a man of plain intellect I hope that day will never arrive when Courts Martial will sacrifice their independence when Soldiers will find it necessary to qualify themselves to be special pleaders by allowing the introduction of those refined distinctions, those subtleties and intricacies which are the bane of substantial Justice and the opprobrium of forensic proceedings.

I shall now conclude this appeal to the Justice and liberality of the Court by expressing my hope that nothing I have said, will be considered as delivered in a spirit of arrogant dictation and that if I ever fail in the object with which I have made it, I shall at least stand acquitted of any wish to be offensive.

J. WILLIAMS, Lieut. Colonel
Commanding Queen's Royals.

Camp Near Poonah,
18th July 1826.

The Court is now cleared and on deliberation are of opinion that the preceding address does not contain any reasons which should induce it to alter its decision of yesterday. But the Court thinks it necessary to explain that this decision is not intended to restrict the prosecutor in producing any further evidence which he may think necessary in support of the first allegation contained in the 3d Charge.

The Court is now opened and the above address and opinion read.

Ensign and Adjutant Hollinsworth again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Will you please to look at the requisition now and state if you did not think when you wrote it that you fully described the Crime for which McHugh was to be tried.

A. I thought when I wrote this note to Lieut. McKenzie that it was the substance in part of the Crime for which the Prisoner McHugh was to be tried. For after having seen Lieut. McKenzie on the morning following the date of this note I had no hesitation in making out the rough copy of the Crime strictly according to the purport of my note as far as the Crime related to Mr. McKenzie.

Q. Did it appear to you from the conversation you had with the Prisoner on the morning after he received the requisition that he felt much anxiety to bring the man found in his Bungalow to conviction and punishment.

A. No, Lieutenant McKenzie appeared to be very passive and showed no anxiety for or against the man's conviction.

Q. Did any remark occur to your mind at the close of your conversation with the Prisoner on that occasion.

A. Various remarks occurred to me, but not at the close of the conversation.

Q. Can you state to the Court some or any of these remarks.

A. Yes, the Crime given in by the Sergeant of the Queen's Royals was groundless in a military point of view that it was written in a moment of haste or by some person who knew very little of the service or that there was a wish on the part of the person giving in the Crime not to bring the man to trouble. These were the remarks that occurred to me subsequent to that conversation.

Cross Examined by the Prisoner.

Q. On what date was the altered Crime against McHugh framed.

A. I believe on the morning that the man was tried, the 8th May.

Q. During the conversation you had with me on the morning of the 7th May did you say any thing in favor of McHugh.

A. I do not recollect that I did.

Q. Did you not say that Private Charles McHugh bore a most excellent character and that you were surprised that he could have been guilty of such a thing, but that you would not have been surprised if it had been his brother who was a great villain, or words to that effect.

A. Yes I recollect perfectly well having said so.

Ensign and Adj. Hollinsworth withdraws.

The following question is now put by the Court to the Judge Advocate.

Q. Is it not the usual custom of the service to alter a Crime from the Regimental Guard Report so as to make it cognizable by the Court ordered to try a Prisoner.

A. In reply to the question I beg leave to quote the following words of Sir Charles Morgan in his remarks prefixed to James's Edition of Tytler's Essay on Military Law "it is not to be supposed that a charge drawn up by those who prefer it is to go of course in that state to trial but it may be formed and altered in such a way, as the Officer who is to order the trial may think best, both in regard to the substance as in other respects."

Lieutenant Cooper again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you remember the night of the 7th May last, rendered remarkable by an extensive fire in the cavalry lines.

A. I do.

Q. Do you remember meeting the Prisoner on that night at some distance from his Bungalow coming as it from the direction of the fire.

A. I do.

Q. Do you recollect any conversation with the prisoner on that occasion relative to the two men found in his Bungalow on the night of the 5th May last.

A. I do.

Q. State as nearly as your recollection will enable you the substance of that conversation.

A. The Prisoner told me that he was awakened at night by being cold occasioned by a window being open and that on looking into his sleeping room he saw a man standing in the middle of the room and a man's legs out of his bed. He went out to the Horse keepers Ghawalas in a tent on the outside and wanted them to come in with him. They were afraid to do so and after that he went to the Sergeant of the Guard and brought him over with a file of men, one man had escaped through the window leaving a pair of Slippers or Shoes in the room and the other man was found in the bed.

Q. Did the Prisoner mention to you whether he intended to attend personally the trial of the man found in his Bungalow.

A. He told me he was too ill to go, and that the Sergeant knew the circumstances as well as he did.

Q. Did you make any observation to the Prisoner on this occasion as to the necessity you conceived there was for his attendance as prosecutor or witness at the approaching Court Martial.

A. I did, I told him that if I was similarly situated I would certainly go, I also told him that if he did not go some remarks would be made on it.

Q. Had you any private motive for offering your opinion or advice on that occasion.

A. Yes, I was always on friendly terms with Mr. McKenzie and I wished to advise him as a friend on account of the reports that I had heard.

Q. Did you not wonder at the prisoner's saying illness would prevent his attending the Court Martial the next morning seeing him then apparently well and able to be out.

A. I certainly thought it a light excuse.

Q. Do you remember in the conversation you had with the Prisoner his mentioning that the two men who had been in his Bungalow were brothers.

A. I do not recollect that he did.

Cross Examined by the Prisoner.

Q. How far was I from my Bungalow when you met me.

A. I don't exactly know the distance but I think it might be about two hundred yards.

Q. When you told me that if you were similarly situated you would certainly go to the Court Martial, to what did you allude.

A. That if I had found these men in the same way in my House and my bed I would have gone and that I also thought it my duty as a Soldier.

Q. Did you at that time inform me that there were any particular reason for my attendance at that Court Martial.

A. I gave you a hint, I told you that remarks would be made.

Q. Did you in any manner explain the nature of the remarks that would be made.

A. No.

Q. Were you on the night of the 7th May last, acquainted with any reports in circulation to my prejudice and in what were they.

A. I had heard no reports respecting the business stated in this charge. It was to the reports

to which I have deposed in my former evidence that I alluded.

Re-Examined by the Prosecutor.

Q. When the Prisoner mentioned that illness would prevent his attending the Court Martial in the lines of the 20th Regiment do you recollect saying it was not much farther from his Bungalow to these lines than from his Bungalow to where he then stood.

A. I said that it was not a great deal farther and that he might find some way of going either in a Palankeen or on Horseback.

Q. Do you know of any and what reports that originated in the Prisoner's not having followed your advice.

A. Yes, it was talked of as an extraordinary thing that he did not prosecute the man, and by the Officers of another Regiment.

Q. Were the reports in consequence which you heard disgraceful to an Officer and discreditable to His Majesty's Service.

A. I think they were.

Cross Examined by the Prisoner.

Q. Did you ever mention to me the reports to which you have last deposed.

A. No.

Q. From whom did you first hear them.

A. I heard them generally talked of amongst the Officers, but I cannot name any particular individual from whom I first heard them.

Examined by the Court.

Q. What distance do you suppose the Mess-Room of the 20th Regiment is from Mr. McKenzie's Bungalow.

A. I can't exactly say, but I think it may be from six to eight hundred yards.

Lieutenant Cooper withdraws.

The Court is now Adjourned until to-morrow forenoon at 11 o'clock.

FOURTEENTH DAY.

WEDNESDAY 19th July 1826.

At a General Court Martial then holden at Poonah pursuant to Adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday.

Ensign Dickson again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you remember the night of the 7th May last, rendered remarkable by an extensive fire in the Cavalry Lines.

A. Yes, I do.

Q. Do you remember meeting the Prisoner on that night and having some conversation with him relative to the two men of the 20th Regiment found in his Bungalow.

A. I do.

Q. State as nearly as you recollect the substance of that conversation.

A. I went to see the fire and on returning I met Lieut. Cooper and the Prisoner walking in the outside of the Prisoner's compound, they were then talking about the men who had gone into the Prisoner's house. The Prisoner then stated to me all the circumstances about the men being found and his going to the Sergeant of the Guard, I understood from the Prisoner that there was to be a Court Martial on the man the next day and I then advised him to attend it but the Prisoner said that he was in the sick list, and that Sergeant Russell knew as much about it as he did and there was therefore no necessity for his attending. I then left the Prisoner completely disgusted with the indifference with which he treated this extraordinary affair.

Q. Do you recollect to have had a conversation with any Officer of the Regt. and whom on the morning of the day you met the Prisoner which decided you to offer him the advice you did on that occasion.

A. I was talking about it with Captain Lawson who said that the Prisoner would not face the Court Martial on the man of the 20th Regiment when I returned from the fire on the same evening I told Captain Lawson that what he had said in the morning was very correct as the Prisoner did not intend going to the Court Martial. The whole of this day, the 7th May, I heard the Officers talking about this extraordinary affair.

Q. What was the nature or tendency of the conversation, you allude to as heard on that day.

Judge Advocate.—I object to the question for the reasons stated in the remarks which I laid before the Court on Monday last, because I conceive that the examination of all the Officers of the Queen's Royals with respect to the existence of the reports alluded to in the 3d charge tend to no other purpose, except to overload the proceeding with an unnecessary quantity of irrelevant matter.

The Prosecutor now addresses the Court as follows.

Mr. President Members of this Court Martial.

By the decision given by the Court yesterday if I understood it right, I am restricted in the evidence I may still have to offer to the Court to the first allegation contained in the charge now under investigation. I merely make this reference to the Court, to avoid if possible giving it any trouble hereafter.

The first allegation goes merely to accuse the Prisoner of not obeying the requisition to attend the Court Martial of Private Charles McHugh, that I believe I may assume as fully proved already, but the charge concludes with an averment that in consequence of the Prisoner's disobeying the requisition, disgraceful reports did arise, which there is evidence on the part of the Officers of the Regiment.

I now beg to ask the Court whether I am to

consider myself at liberty to offer evidence in support of this averment, as otherwise the fullest proof of the first allegation can be of little service, and what I conceive to be the material part of the charge as affecting the Prisoner, falls at once to the ground.

J. WILLIAMS, Lieut. Col.
Commanding Queen's Royals.

Mess House,

Queen's Royals, 19th July 1826.

The Court is now closed and on deliberation are of opinion that the question shall be admitted concerning it bears upon the latter part of the 3d charge, viz. that the most disgraceful reports existed.

The Court is now opened and the preceding remarks and opinion being read, the Question is put.

Q. What was the nature or tendency of the conversation you allude to as heard on that day.

A. The reports were of the same nature as those spoken of at Colabah.

Cross Examined by the Prisoner.

Q. During the conversation that took place between us on the night of the 7th May last, did you inform me that there were any particular reasons for my attending the Court Martial, which was to be held for the trial of the man of the 20th Regiment.

A. No, I did not, I only advised you to go as your presence at the Court Martial, would get the man more punishment than the Sergeants at the particulars.

Q. Did you at that time inform me, that there were any reports in circulation to my prejudice.

A. I did not.

Q. Had you heard any remarks, made with respect to McHugh being found in my Bungalow previous to Captain Lawson, making the remark to which you have above deposed.

A. No, I do not recollect that I did.

Q. Did Captain Lawson explain the reason why I would not face the Court Martial as you have above deposed.

A. No, he did not state any reason.

Q. Was what you have above deposed all the conversation that took place between you and Captain Lawson at this time.

A. Yes, it was.

Ensign Dickson withdraws.

Captain Lawson again called into Court, and examined on his former oath.

Examined by the Prosecutor.

Q. Does Ensign Dickson and you reside in the same Bungalow.

A. Yes, we do.

Q. Do you remember to have had any conversation with that Officer on Sunday the 7th of May last, relative to the Court Martial that was to assemble next day for the trial of Private McHugh of the 20th Regiment, if so, state the general purport of it.

A. I was in the sick report and Mr. Dickson on coming up from the Barracks mentioned that there was to be a Court Martial on the prisoner of the 20th Regiment, and I then observed that it was my opinion that Mr. McKenzie would not face the man, on the evening of the same day I desired Mr. Dickson to mount his horse and see whose house was on fire, he mentioned that it was the stay of the cavalry and that on returning he had met Mr. McKenzie who told him he did not intend going to the Court Martial next day and that my conjecture was correct.

Q. Had you any reason or ground for the opinion you then expressed, if so, state them to the Court.

A. I considered the circumstance of a private Soldier being found in Mr. McKenzie's Bungalow as corroborative of the reports that had been in circulation at Colabah.

Q. Do you know of any remarks or reports deeply affecting the Prisoner's character having grown out of the circumstances of the Prisoner's non attendance at that Court Martial, if so, state them.

A. It was a Subject of general discussion and animadversion in and out of the Regiment.

Q. Have you ever said that if you had been in Command of the Regiment at the time of this fresh occurrence you would have thought it your duty to report the circumstance to Lieut. Colonel Williams on his arrival in the Camp from Singhar, or words to that effect.

A. I should have been in command of the Regiment had I not been in the sick report, and one evening when drinking Tea with Captain Head and Captain Graham, I observed, that I thought the reports so disgraceful that had I been in command of the Regiment I would have reported the circumstance in order that the whole affair might be investigated. But as Captain Brough was an older Officer in the army I conceived there was no occasion to dictate to him as he must know what he ought to do as he must have heard the reports as well as myself.

Cross Examined by the Prisoner.

Q. When did you first hear the reports which you deposed originated in the circumstance of a Private Soldier being found in my Bungalow.

A. On Saturday morning the 6th of May last, to the best of my recollection.

Q. From whom did you first hear these reports.

A. There was a number of Officers going in and out of my Bungalow during the day, so that I cannot recollect from whom I first heard it, but I think it probably was Mr. Dickson from the circumstance of his being an inmate of my Bungalow.

Q. State the precise terms as nearly as you recollect in which these reports were mentioned.

A. I cannot recollect the precise terms.

Q. State the manner in which these reports were mentioned so that an opinion may be formed from the words used whether the reports you now depose to apply to the charge before the Court.

A. They were of a disgraceful tendency.

Q. In what respect were they of a disgraceful tendency.

A. First from the circumstance of a man being found in your bed, and then from your not

prosecuting the man and not trying to find out the other man who had been in the house, though you had his Shoes in your possession, all this is from report.

Q. Did you hear it said that the man had been found in the bed in which I was sleeping.

A. I merely heard that he was found in Mr. McKenzies bed and that the man was sober.

Q. Did you hear it said that the man had been apprehended by some men whom I went myself and brought from a neighbouring guard.

A. I did.

Q. By whom were you informed that I kept the Shoes of the other individual and never tried to find him out.

A. It was mentioned at the same time that I heard the other details. But it is impossible to fix on any particular individual who mentioned the circumstance.

Q. Did the reports to which you have above deposed go to the extent that a criminal intercourse had taken place between me and McHugh.

A. No, they did not, the prevailing idea was that it was a very mysterious affair and pregnant with suspicion.

Examined by the Court.

Q. Did you ever acquaint the Prisoner with the reports in circulation to his prejudice.

A. I never did, as I never saw the Prisoner for two months before I saw him in this Court.

Captain Lawson withdraws.

The Court is now adjourned until to-morrow forenoon at 11 o'clock.

FIFTEENTH DAY.

THURSDAY 20th JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday.

The Court is now closed at the request of the Judge Advocate who addresses the Court as follows.

Mr. President.

Unwilling to interrupt the proceedings by legal objections I have hitherto refrained from making any formal remarks on the evidence adduced by the Prosecutor.

But in consequence of the discussions which have taken place during the three last days I consider it my duty to call the Court's attention to the very first principles of evidence, because no rule of law is better established than that the attestation of a witness must be only to what he actually knows from his own observation of the facts alleged in the charge, and he is not to be examined as to what he has heard, or been informed of by others, for his testimony being in that case a reference to the information of another, who is not upon oath, nor liable to be Cross-examined, is no evidence at all, opinions, also, are not admissible evidence in Courts of Law, but the nature of several military offences renders their admission at Courts Martial, to a certain extent unavoidable. But even these questions of opinion ought always to be restricted to such facts or circumstances as are material to the proof of the charge, examine, however, the evidence adduced in support of the Prosecution which is recorded on these Proceedings, and it will be found to consist almost entirely in hearsay and opinion, and that most, if not all, of the facts recorded have been elicited by the Cross-questions of the Prisoner. Thus completely reversing the usual course of trials, where the Prosecutor produces facts and the Prisoner is obliged to invalidate these facts by such inferior evidence as he may be able to bring forward, yesterday, for instance, the time of the Court was occupied in hearing evidence to a conversation which took place between Captain Lawson and Ensign Dickson at which the Prisoner was not present contrary to every rule of evidence; and to listening to the opinions of these two Officers.

I admit at the same time, that a report may be legally proved. But in this case the report ought to assume a distinct form, as for instance, to use the Prosecutor's own words as deposed to by Mr. Campbell, "That the man found in the Prisoner's Bungalow, if not both men, seen there had come by appointments for the most abominable purpose." If therefore, the witnesses whom the Prosecutor still intends calling in support of this charge can depose that a report in those or similar words was in circulation, all that can be said, is that as two or three witnesses to the same point are as good evidence as twenty or thirty, the adducing more is merely wasting the time of the Court. But, if the further examination of witnesses on this charge can produce only such evidence as has been given in support of the Prosecution by Lieutenant Littlejohn, Lieut. Cooper, Ensign Dickson and Captain Lawson, I may be allowed to give it as my opinion that such evidence is not only unnecessary but illegal.

To exclude irrelevant material altogether from the Proceedings of Courts Martial is perhaps impossible on account of either the parties on the trial nor the Court being sufficiently acquainted with the strict and regular mode of examining witnesses, nor would its admission be of much consequence if the Members would carefully separate such matter from that which is applicable to the charge, and would bear in mind that the former ought to have no influence on their final decision. But when a Prosecutor asserts that the mere existence of a report is sufficient to attach culpability to a Prisoner, and the Court by its decision virtually acquiesces in this opinion it becomes my duty to object to all evidence adduced on such a principle, and to declare that if the finding of this Court is in any degree influenced by it, it will rest on grounds the most erroneous and illegal.

For no person is answerable for the reports that may be circulated to his prejudice, and in such a case the only offences of which an Officer can be guilty are that he actually conducted himself in the manner reported, or that, when he became acquainted with such reports, he did not take proper steps to vindicate his character.

It is rather singular, also, that the very avowal on which the Prosecutor lays so much stress, and in support of which he is so anxious to adduce further evidence, is not contained in the charge under investigation. For in no part of it is it alleged that most disgraceful and discreditable reports existed; but merely that the Prisoner, by having neglected to take any measures to explain the extraordinary circumstance stated in the crime on which McHugh was tried exposed his own character to such Reports. The Prosecutor, however, in his address of yesterday has used the following words, "But the charge concludes with an avowal that in consequence of the Prisoner's disobeying this requisition disgraceful reports did arise which there is evidence on your proceedings to show were not even confined to the Officers of the Regiment I now beg to ask the Court whether I am at liberty to offer evidence in support of this avowal, as otherwise the fullest proof of the first allegation can be of little service, and what I conceive to be the material part of the charge as affecting the Prisoner falls at once to the ground." But the Court will in vain refer to the 3d charge now before it to discover in it any such avowal as the one stated by the Prosecutor that disgraceful reports did arise every Member must know that the Court cannot find the Prisoner guilty of an act which is not specified in the charge, consequently if the material part of the 3d charge preferred against the Prisoner derives its culpability from the mere existence of reports to his prejudice no evidence to this point ought to have been admitted by the Court and all that now appears on these Proceedings ought to be thrown out of its consideration. Because a Prosecutor must confine himself strictly to the charge, and is not at liberty to give in evidence, by way of aggravating the Prisoner's guilt, any facts which have not been specifically alleged in the charge. For were such evidence admissible persons might be tried for offences of which they were not legally accused, and against which they were not legally called upon to defend themselves, nor could a Prisoner be ever aware of the evidence which he would have to controvert, nor of that which it might be necessary for him to adduce in his own justification.

It is at the same time to be observed that in his two last addresses the Prosecutor puts a construction on this charge, which the words contained in it will not admit. But it is an incontrovertible principle of law that in an indictment nothing material shall be taken by intendment or implication. On a reference however, to this charge the Court will observe that it contains two allegations only viz. that the Prisoner did not attend the trial of McHugh, and that he neglected to take any measures in order to explain the extraordinary circumstances stated in the Crime on which this man was tried; and that the concluding part of the charge is merely an inference drawn by the Prosecutor and not an avowal of a specific fact, strictly speaking, therefore, the Prosecutor ought to have been restricted to the proof of these two allegations, for it was the province of the Court to determine whether, if the allegations be proved the inference drawn by the Prosecutor is just or not. But in a case which involves the character of an Officer and therefore requires the fullest investigation, I thought that a deviation from the strict rules of Proceeding might tend materially to promote the ends of Justice when however, it appears that an attempt is made to employ the irrelevant matter and illegal evidence admitted on these Proceedings to the prejudice of the Prisoner it would be a dereliction of my duty did I remain any longer silent I therefore, lay before the Court these remarks, but it remains for it to decide on their correctness and to regulate its own Proceedings in whatever manner it judges proper.

The Proceeding remarks having been read over the Court is re-opened.

The Prisoner now delivers in the following address.

Mr. President and Gentlemen.

It is impossible for me to defend myself against the mass of hearsay evidence and opinion which has been permitted to stand on the Proceedings against me, my earnest wish and endeavours have been to arrive, through it, at some direct and positive evidence bearing upon the charges, and this alone has induced me to reply to it, by a Cross-examination.

Frustrated in this attempt, at all points by the want of recollection of the witnesses of the most important circumstances, it now only remains for me to protest against the legality of that evidence, and to decline, on that account any further Cross-examination.

G MCKENZIE, Lieut. Queen's Royals.

Lieutenant Lyster again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you recollect on the morning after the Soldier of the 20th Regiment had been found in the Prisoner's quarters to have had any conversation with him.

A. I do perfectly.

Q. Did you in the course of that conversation recommend it strongly to the Prisoner to attend the trial of that individual in person and state so far as you can recollect the arguments you made use of on that occasion.

A. I did not recommend the Prisoner to prosecute the man. But I told him that if it was my case I would prosecute him to the utmost.

Q. Has it ever come to your knowledge that reports deeply affecting the Prisoner's character originated in his not having taken the hint thus afforded him.

A. Yes, I did.

Q. State the nature of those reports.

A. The reports were that it was very extraordinary that he did not prosecute a man who had been in his bed, particularly as he did not rob him.

Q. Had you any and what private reasons that weighed with you when you described what your conduct would have been if similarly circumstanced.

A. I had for when Mr. McKenzie told me that this man had been found in his bed and had not robbed him of anything I thought he must have come there for the worst intention.

Cross Examined by the Prisoner.

Q. State the whole of the conversation we had together relative to this man on that morning, the 6th May last.

A. As nearly as I can recollect Mr. McKenzie told me that he discovered two men in his bed room at night but he did not state the hour and that he did not consider himself equal to making both of the men Prisoners, for which reason he called in part of the Guard opposite to his quarters to assist him and that when he came back one of the men had escaped leaving behind his Shoes and the other man the Sergeant took out of the bed. I asked him if he intended to Prosecute the man, or something similar to that, and he said he was not able to go up being ill, but that the Sergeant knew as much of it as he did. I said that if it had been my case I would be damned if I would not Prosecute the man to the utmost. I think these were the words as nearly as I can recollect.

Q. Did you not say on that occasion, "that you were sorry you did not hear it a little sooner as you had just written to Colonel Williams, and that it would give him pleasure to be able to retaliate on the 20th Regiment" or words to that effect, some of our men having been reported by Colonel Fitz-Gerald shortly before.

A. No, I did not, I mentioned to you that I wished you had told me this sooner as I had just written to Colonel Williams.

Q. Had you heard the reports to which you have just deposed on the 6th of May.

A. No, I heard them in the mess-room the next day.

Q. Did you inform me that there were any particular reasons for my personally Prosecuting this man.

A. Certainly not.

Lieutenant Lyster withdraws.

The Prosecutor now addresses the Court as follows.

Mr. President and Gentlemen.

I have now laid before the Court the best evidence I have been enabled to collect of the Prisoner having with his eyes open I may say exposed his character to the most disgraceful reports, as averred in the charge at present under investigation. Anxious to spare as much as possible the time of the Court, I shall waive the advantage the Prosecution might derive from the examination of the whole body of Officers, as at first proposed and shall limit myself to the examination of Captain Brough, Head, Goddstone and Graham, to shew the impression made upon their minds by the fatal indifference manifested by the Prisoner to public opinion, the natural and necessary result of which has been neither more nor less than what common preception and common feeling might have enabled him or any other man to anticipate and prevent by merely pursuing the easy and obvious line of conduct that was pointed out to him.

J. WILLIAMS, Lieut. Col. Commanding Queen's Royals.

Mess House, Queen's Royals 20th July 1826.

The Court being now closed and having taken on the preceding address into consideration resolves that the Court does not object to the evidence now offered but recommends the Prosecutor to restrict his further evidence on the 3d charge as much as possible to facts.

The Court is now opened and the preceding address and opinion read.

Captain Brough again called in Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you recollect the circumstance of a Private of the 20th Regiment having been found in the Prisoner's quarters while you were in temporary command of the Regiment.

A. I recollect the circumstance having become the subject of conversation, but it was never reported to me officially.

Q. Do you know of any remarks, or reports deeply affecting the Prisoner's character which appeared to have originated in that occasion.

A. Yes, I heard remarks both in the Regiment and out of it.

Q. State them to the Court.

A. That the Prisoner's conduct was highly improper in not Prosecuting a man found in his quarters and bed, and it was considered very extraordinary.

Q. Did not these reports assume a more serious and aggravated character after it was found that the Prisoner had not attended the trial of the offender.

A. I heard the remarks to which I have above deposed out of the Regiment after the Court Martial had assembled in the 20th Regiment. The reports alluded to in the question certainly assumed a very aggravated character in consequence of the Prisoner's not attending the trial.

Q. From whom did you hear the remarks out of the Regiment.

A. The remarks were made by Captain Stanley of the 20th Regiment at a party at Mr. Hunter's.

Q. Did you take any steps as commanding Officer of the Regiment in consequence of what came to your knowledge on that occasion.

A. On the day of Colonel Williams returning from Singhur I reported to him all the circumstances that had come to my knowledge with the exception I believe of what Capt. Stanley had stated.

Cross Examined by the Prisoner.

Q. Did you ever in any manner make me acquainted with the remarks or reports in circulation respecting the man of the 20th Regiment found in my quarters.

A. No.

Q. On what day did Captain Stanley make the remark to which you have above deposed.

A. I do not recollect.

Q. In what manner did Captain Stanley make this remark.

A. He expressed his surprise very strongly.

Q. Was what Captain Stanley mentioned advanced as an opinion or stated as a fact.

A. He expressed his surprise at what had come to his knowledge.

Q. State as nearly as you can recollect what Captain Stanley mentioned had come to his knowledge.

A. The circumstance to which he alluded was the man of the 20th Regiment being found in your quarters and bed, but I do not recollect his exact words, and also to your not having attended the Court Martial on the man.

Captain Brough withdraws.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

SIXTEENTH DAY, FRIDAY, 21st JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday.

The President now directs the Court to be closed and then addresses it as follows.

Gentlemen of this Hon'ble Court.

As your President I deem it my duty to bring to your particular notice the very erroneous line of conduct adopted in my opinion by the Judge Advocate in carrying on this trial by withdrawing his advice from the Prosecution under the plea, that he was not to assist the Prosecutor because he did not request his advice and because his opinion differed entirely with him with respect to the evidence which he thinks necessary to adduce in support of the 3d Charge.

It must be obvious to every Member of this Court what has been the consequence of this determination of the Judge Advocate, the Prosecution extended to a most unnecessary length matter introduced totally irrelevant to the charges, a mass of evidence brought forward where two or three might have been sufficient, all of which I consider to be the Judge Advocate's duty to have checked, for the Court being a third party to decide between the Prosecutor and Prisoner cannot well interfere with the Prosecution or Defence.

I therefore being satisfied in my mind that not only the Judge Advocate but every individual brought before this Court is under the control of the Court and with a view of maintaining the respectability and just rights of Military Courts of Justice do move.

That the Judge Advocate be directed by the Court to attend to the Prosecution, and if he should perceive any part of a question proposed by the Prosecutor which would be likely to bring out matter irrelevant to the charges before the Court that it is his duty to recommend to the Prosecutor and to do so accordingly the alteration of such question so that it may bear upon the charge and also, as it appears to the Court that a mass of evidence is produced before the Court to one particular point only, that the Judge Advocate be directed whenever he consider sufficient evidence is produced by the Prosecutor to any part of a charge to state his opinion to the Prosecutor that no further evidence is required on that head.

Poonah, JOHN FITZ-GERALD, July 21st 1826. Colonel and President.

The preceding motion of the President being submitted to the opinions of the Members it is resolved that it is not necessary to adopt the mode of proceeding therein recommended.

The Court is now re-opened.

Captain Girdlestone again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you recollect the circumstance of a man of the 20th Regiment having been found concealed in the Prisoner's quarters on or about the night of the 6th May last.

A. I recollect to have heard that such was the case.

Q. Do you know of any reports deeply affecting the Prisoner's character having grown out of that occurrence.

A. Yes, I heard an Officer of the 20th Regiment say in this room at a public supper table that he supposed the man went there by appointment.

Q. State the Officer's name.

A. Captain Stanley.

Q. How long after the occurrence of the man being found in the Prisoner's quarters was it when you heard this observation.

A. To the best of my recollection I heard it on or about the 6th May on Saturday the club night.

Q. Was there any thing peculiar in the manner of making this observation, that arrested your attention at the moment.

A. Yes, the manner in which it was said was facetious, but so significant that it conveyed to my mind that Captain Stanley considered the offence otherwise than a joke.

Q. Do you know of any other reports connected with this affair being in circulation in or out of Regiment, and if so, state the nature, import or learning of these reports.

A. I have heard it mentioned that it was very extraordinary that the Prisoner did not attend to prosecute the man of the 20th Regiment found in his quarters, but I do not recollect anything further, except on the night that Captain Stanley made use of the expression I have already mentioned he said to some one across the table that it was so and so (naming the man) you know, and this was said in so significant a manner as to convey to my mind that there was something particular in the character of the man.

(To be Continued.)